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Material Abstract

Arthur Craig Whittall

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Biopolitics and the British Empire:

Giorgio Agamben's *Homo Sacer* and the 'Criminal Tribes' of British India

The thesis examines the 'Criminal Tribes' system of British India through an Agambenian biopolitical frame. This project aims to make an expansive contribution to the study of Agamben's biopolitics as a political theory of original and continuing value by showing its ability to deliver unique insights into the detailed empirical case study it undertakes. It also aims to further develop the historical examination of the Criminal Tribes system of British India, using Agamben's work at a deeper level of theoretical sophistication than existing historical treatments permit.

This thesis contributes to the development of both the historical and the political theory literature on the biopolitics of colonial modernity. The project builds an analytical model that can identify a 'common core' of concerns shared by theorists of biopolitics, and subsequently identify those characteristics that make Agamben's own concept of biopolitics thoroughly distinctive.

Both models - the general biopolitical one, and the specifically Agambenian one - will be applied to the Criminal Tribes case study in order to demonstrate (1) that the Criminal Tribes system is amenable to a biopolitical reading; (2) that a specifically Agamben-derived biopolitics provides a clearer and more coherent account of the distinctive elements of this system than a general biopolitical model; and (3) that conditions theorised by Agamben as typical of European biopolitics can be originally traced back to the material and political conditions of European colonial modernity.

**Biopolitics and the British Empire:
Giorgio Agamben's *Homo Sacer* and the 'Criminal
Tribes' of British India**

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Submitted for the qualification of Doctor of Philosophy
Research conducted in the School of Government and International Affairs, Durham
University
Submitted to Durham University

September 2020

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Statement of copyright

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Thesis Introduction and Literature Review

Terminological Note:

Throughout this thesis, I will be referring to 'Criminal Tribes.' This is, of course, an outdated and historically loaded term, and I must begin with an explanation as to the way in which I will be using this deliberately capitalised version throughout this thesis.

Firstly, to refer to the 'Criminal Tribes' is expedient. Expedient for the reason that this is the term that was most widely used in contemporaneous sources (adding consistency to quotations, book titles, etc., by echoing the term in the analysis) and the relevant pieces of legislation, and also that the correlate contemporary term 'Notified Tribes' and subsequent terms 'Denotified Tribes', and 'Denotified and Nomadic Tribes (DNTs)' are more cumbersome and less clear.

I intend to use the capitalisation of the term Criminal Tribes to demonstrate that my use of the term does not refer any tribe that is or has been accused of being inherently criminal (in this respect, I judged that an uncapitalised 'criminal tribes' risks an inappropriately adjectival appearance). Rather, my use of the capitalisation is intended to show that the term is itself an object, created by British authorities and consolidated through contemporaneous works of anthropology, criminology, popular literature, that exists independently of, and bears no intrinsic relation to nor makes any reflection upon, the people who were grouped under it.

I hope that the capitalisation of the term Criminal Tribes will continue to visibly render this term as a noun (and therefore an object, and therefore an artificial construct) rather than as an essentialising adjective for any particular social group(s).

Finally, for purposes of brevity, I advise the reader to expect regular contractions of the phrases 'Criminal Tribe/s' to 'CT' and 'CTs', and 'Criminal Tribes Act/s' to 'CTA/s'.

Opening Remarks

In 1871, a piece of legislation was passed in British India that allowed provincial governments to label local tribes, mainly nomadic and semi-nomadic tribes, as habitual and hereditary criminals. It allowed them to do so without a crime having been committed. It authorised the arrest, without the inconvenience of a warrant, of any individual belonging to a tribe 'notified' of their collective criminality, and their forced removal to 'reformatory settlements'. The act of notification itself, and much of the operation of these settlements, was deliberately placed beyond the reach and oversight of the established juridical apparatus of the colonial Indian state.

As the system built around this 'Criminal Tribes Act' grew, these settlements grew into camps capable of holding thousands, in some cases tens of thousands, and which practised not just the detention of people, but aimed at the full reconstruction of their way of life. The Criminal Tribes (CT) system aimed to break their traditional habits and livelihoods, in order to shape those communities into an idealised, British conception of how an Indian peasant should live – as private property-owning, wage-labouring, sedentary agricultural and industrial workers, with new sets of standards for behaviour, hygiene, and dress, new family and inheritance structures, familiar with and embedded within the wider institutional fabric of the Raj. This system, which persisted until its formal abolition in 1952, labelled more than 150 communities and kinship groups (that is, by some estimates, as many as thirteen million people) as members of 'Criminal Tribes', and more than 3.5 million people were made subject to some form of movement restrictions, incarceration, or forced labour as a result.

The project that I embark upon here has one principal aim. I seek to demonstrate that the application of Giorgio Agamben's concept of biopolitics, derived from the diagnostic aspects

of his political theory in *Homo Sacer*, can provide a coherent and compelling account for the motivation, design, and operation of the 'Criminal Tribes' system of British India.

In these opening remarks, I will identify the claims that this thesis will make for original contributions to research in the disciplines of political theory and history. I will then outline the structure of the thesis which follows, giving a chapter-by-chapter summary of the way in which I will develop these arguments. Finally, this Introduction will move on to a brief survey of the scholarship that has made my own investigation possible, identifying its critical precursors in a number of works of biopolitical theory and colonial history, and also a number of contemporary developments in the literature that have also been made possible by those works.

The research project that I have designed and completed in the following pages makes a number of original contributions to my field of inquiry. These can be organised into two distinct series. Firstly, I intend to advance three 'primary' claims for the work as a whole. These are the principal arguments for which this thesis will be judged and which, I hope, will each form a novel, useful, and lasting contribution to scholarship on the topic of biopolitics and empire. I will also identify four 'secondary' claims of original scholarship, each located within one of the four main chapters of this thesis, which I will argue to be both original and useful, but secondary to the focus and motivation of the project itself. Nevertheless, I will offer them as further examples of the potential benefits to both political theory and historical scholarship that a fuller use of Agamben's biopolitics can provide.

My first primary claim is historical. I will demonstrate that the use of Agamben's biopolitics as an interpretative frame offers a novel and coherent account for the motivations and operations of British colonial power in the design and administration of the 'Criminal Tribes'

system of legislative acts and reformatory settlements. I will do so in a sequence of two steps, beginning with the identification of a general biopolitical model derived, as the majority of biopolitical theories are, from the work of Michel Foucault. This model, which I refer to as the 'common core' of biopolitics, identifies four areas of analysis shared between prominent biopolitical theorists including Agamben. This step in my argument is essential as a point of context for my subsequent discussion of Agamben's theory, acknowledging the common ground shared by writers across the discipline, and as a reflection of my own thinking on how biopolitical writers, inquiries, or historical examples can be usefully assessed and compared.

I then intend to show how the use of a distinctively Agambenian model, one which uses a number of features of Giorgio Agamben's biopolitics that are not generally found in the traditional Foucauldian concept, provides an even closer 'fit' to the historical example that we are investigating. My historical claim therefore, is that Agamben's biopolitics provides a more effective analytical frame for attempting to understand why the Criminal Tribes system came into being, what its objectives were, and how the various 'tools' of this system came to be chosen. I wish to steer as clearly as possible away from the distinctly trans-historical inclination of Agamben's work, and of many of the biopolitical theorists who have developed his concepts further. My analysis in this thesis is limited to the 'Criminal Tribes' system – the acts of legislation, and the administration/operation of the settlements – rather than making any sweeping claim for universal validity of Agamben's biopolitics.

The second of my primary claims is theoretical. My historical argument intends to demonstrate the coherence and close applicability of Agamben's biopolitics to an instance of British colonial history. By resisting the trans-historical tendencies of Agamben's biopolitics, and instead by grounding the concept in the material conditions of the Criminal Tribes system,

I believe that it is also possible to derive a better understanding of the genesis of Agamben's biopolitics as political theory. Namely, I intend to argue that the phenomena that make up Agamben's account of biopolitics in interwar Europe, which then provokes his own theoretical journey back through Western politics in *Homo Sacer* – the tension between political and natural forms of human life, the expanded rule of the exception as opposed to systems of law, the tension between the privileged life of the citizen and the undifferentiated masses of poor and disenfranchised whose 'inclusive exclusion' in the political order leads to excesses of exclusion and extermination – all of these historically legible traits of Agamben's biopolitics can be said to have occurred together for the first time in the context of European colonial modernity. My theoretical argument is therefore that Agamben's biopolitics should be better understood as a theory made possible by events in colonial administrations in places like India decades before making their way back to Europe (in the famous 'boomerang' motion, known to both Foucault and Arendt) and forming the starting point of Agamben's own biopolitical analysis.

My final primary claim, which underpins both of the preceding claims and forms the condition of possibility for this project in its entirety, is methodological. My double ambition for this thesis as a whole is to bring a richer (that is to say, more theoretically-informed) model of biopolitics to the study of colonial history, and simultaneously to strengthen the analytical value of the political theory of biopolitics through a deeper (that is to say, more detailed and rigorous) level of historical engagement with its case studies. By doing so, I seek to offset the deficiencies of many existing approaches that tend to skew this balance in favour of their disciplinary traditions – histories that mention, but do not make the fullest use of, biopolitics (and Agamben in particular), and biopolitical theory that engages at surface level with a given

historical example, but often lack the depth of historical investigation to make their cases as effectively as possible.

I hope to demonstrate the possibility and desirability of bringing Agambenian biopolitics and colonial history together in a deeper and more equitable balance, in order to extract the greatest possible analytical value of each, through their combination with the other. This is not to say that this has never been attempted before, and my discussion of relevant literature that closes this Introduction will show where similar syntheses have been attempted and their levels of success. This thesis will be able to credibly claim an original level of balance between the disciplines of political theory and history, as I develop a theoretically rich reading of Agamben's biopolitics and apply it to a deeply-researched historical case study of British India's 'Criminal Tribes'.

These three arguments, the historical, the theoretical, and the methodological, are all deeply related and mutually reinforcing. Taken together, they will make a new and useful contribution to the wider analysis of biopolitical theory and European colonial history, and prove equally useful to both historians and political theorists working at the intersection of biopolitics and empire.

This thesis also has four 'secondary' claims of originality, each one developed in one of the four chapters that follow. I will shortly move on to outline the structure and focuses of each chapter in more detail, so here I will simply state these minor, but novel, contributions. Firstly, in Chapter One, I develop what I refer to as a 'common core' of biopolitics. This is a four-part list of characteristics common to all models of biopolitical analysis derived from Foucault. This is an original construct and, if successful, may become a useful tool for scholars seeking to establish whether a piece of writing, or a given historical case study, can be said to be open

to a biopolitical reading. In Chapter Two, I identify those elements of Agamben's biopolitics that make his model distinct from the traditional, Foucauldian form. I will establish a model with five key characteristics of Agambenian biopolitics. Again, this model has not been developed in existing biopolitical literature and will make a further, small contribution to the voluminous literature that surrounds Agamben's *Homo Sacer* project. In Chapter Three, my historical case study of the Criminal Tribes Acts and settlements system, I create a novel organisational schema for existing historical Criminal Tribes literature based around shared common themes and points of emphasis. It is neither exclusive nor comprehensive, but it organises the literature within it in a new way and should be of use to historians of the CT system surveying the organisation and association of prominent works in the field. Finally, in Chapter Four, where I apply the two biopolitics models (the Foucauldian 'common core', and then the 'Agambenian' model) to the historical case study, I conclude by identifying a distinctive change in the operation of the Criminal Tribes system, moving from the de/reconstruction of the ways of life of those incarcerated within settlements, to a much more exploitative, labour-focused mode of operation. I have called this the 'Labour Turn' in the Criminal Tribes system, and set out the ground upon which this phenomenon could be further investigated. The idea of the 'Labour Turn' and the tripartite separation of the main governing objectives of the system as a whole during its lifetime, are both new and could form the basis for a number of potentially fruitful historical and economic studies.

Once again, these four 'secondary' arguments are exactly that, secondary – they are not the centrepiece of this investigation. I offer them here not as definitive contributions to the scholarship in our field (the objective of my three 'primary' claims), but as tentative innovations that I, and other scholars interested in pursuing them, may eventually convert into substantive and novel contributions of their own.

With the original contributions that I aim to make to the scholarly literature on biopolitics and colonial history described, I will move on to outline how this thesis will be structured in order to develop these arguments.

In Chapter One ('Toward a 'Common Core' of Biopolitics'), I begin the work of developing my biopolitical analysis at its widest point of resolution. I will identify four key characteristics held in common between Foucault and Agamben, that form the basis of any concept of biopolitics derived from Foucault's work. The chapter moves through four sections, each arguing for one of the following 'common core' points:

- 'Control of bodies' – that biopolitics asserts that modern forms of power target and act directly upon the individual, physical body, as one of its principal functions;
- 'Population as object' – that biopolitical theory holds that the shaping and management of the population as a whole (rather than as an aggregate of individuals) is one of the historical keys to biopolitical governance;
- 'Politics as spatial administration' – that the spatial component of the operation of state power is essential to understanding how biopolitics governs societies and people;
- Finally, 'epistemic foundations' – that all of the above is only made possible and sustained by the organisation and production of distinctive forms of knowledge, particularly scientific and medical knowledge, that came into existence from the seventeenth century.

In each of these sections, I will define in detail the theoretical concept, making reference primarily to Foucault and Agamben to show how these characteristics can be derived from, and discerned in, their work. I will also identify 'historical indicators' for each, which are the

ways in which I argue these often abstract theoretical concepts can become historically and materially legible in the analysis of existing, historical/contemporary instances.

Of course, I do not argue that any one of these concerns is an exclusive preserve or immediate indication of a biopolitical perspective. If, however, all four characteristics can be identified in a piece of scholarship, then I would argue there is a strong case to be made that the writer is employing a Foucault-derived biopolitical frame. Further, I would argue that if all four characteristics can be identified within a given historical case study, that this works as a demonstration of the potential analytical value of applying a biopolitical perspective to the subject. This is, indeed, one of the cases that I will subsequently make in my analysis of the Criminal Tribes system.

Having built the 'common core' model of biopolitics, Chapter Two ('An Agambenian Model of Biopolitics') will bring the analysis into a tighter focus on Agamben. My objective here will be to show where Agamben's biopolitics stands out in distinction to a traditional (i.e., Foucauldian) concept. I will argue for a five-point model of characteristics which, if not all individually unique to Agamben in the field, only appear in combination in works employing an Agambenian biopolitical frame:

- 'Bare life' – the presence of the phenomenon which has become ubiquitous in the popular understanding of Agamben's biopolitics;
- 'Regimes of Exception' – what the 'exception' means in Agamben's biopolitics, and the important work of differentiating it from Schmitt's idea of *Ausnahmezustand* (the suspension *in toto* of a legal-constitutional order);
- 'The Camp' – identifying Agamben's distinctive reading of what 'camps' are, their function, and the many forms of their appearance in recent history;

- ‘Trajectories of Escalation’ – the tendency, in Agamben’s theorisation of biopolitical government, for interventions against particular individuals and groups to be both continually expanded to others, and intensified in their operation, over time;
- ‘Form of Life’ – that, at the heart of Agamben’s understanding of the biopolitical, is the idea of *bios*, the political life of the citizen (or other privileged category within a political order), and the non-material shaping of this collective ‘form of life’ as a guiding motivation of sovereign power.

Again, for each of these, I provide a reading drawn primarily from Agamben’s diagnostic biopolitical perspective, developed in his book *Homo Sacer: Sovereign Power and Bare Life*.¹ I will also identify ‘historical indicators’ that can determine whether a given historical situation meets these criteria. The end result of this chapter will be an ‘Agambenian model’ of biopolitics, which I will apply alongside the ‘common core’ model to the Criminal Tribes system. I will argue that the presence of historical indicators of the latter, distinctive as they are from a general biopolitical perspective, is evidence that Agamben’s biopolitics is of particular analytical value in its application to this, and therefore potentially to similar, case studies.

In Chapter Three (‘The ‘Criminal Tribes’ of British India’), I will conduct a thorough, historical survey of the Criminal Tribes legislation and the principal features of its associated settlements system. My primary source material for this work comprises administrative records and correspondence contained within the India Office Records of the British Library, similar documents contained within the Salvation Army International Heritage Centre, and contemporary published books. In addition to this material, the discussion will be informed

¹ Agamben, G. *Homo Sacer: Sovereign Power and Bare Life* (Stanford, CA; Stanford University Press, 1998).

by a substantive body of existing scholarship on the topic, spanning published outputs and academic papers from the last four decades. As discussed earlier, I will also open the chapter with a brief survey and thematic organisational scheme for existing administrative and scholarly literature on the topic. The chapter proceeds through four sections:

- ‘Themes in the History and Historiography of the Criminal Tribes System’ – in which I identify the sources and distinguishing features of both the colonial administrative literature, and the subsequent secondary scholarship, on the origins, operation, and meaning of the Criminal Tribes system;
- ‘Legal Developments and Precursors, 1772-1871’ – here, I will sketch the legal background to the first Criminal Tribes Act, from the East India Company’s exceptional response to dacoity (collective armed robbery), through the *Thuggee* panic and its responses, to the discussions that preceded the first CTA, in 1871;
- ‘The Criminal Tribes Acts and Amendments, 1871-1911’ – this section presents the key clauses of the original 1871 Act, geographically limited to parts of Northern India, its 1897 amendment, and the 1911 CTA that systematised the legislation and settlements system through application across the entirety of British India;
- ‘The Criminal Tribes Settlements’ – this section uses extensive historical research to identify both the objectives and methods of control in the CT ‘reformatory settlements’, also referred to as ‘concentration camps’ in the administrative literature of the time.

In this discussion, I intend to show that one of the areas in which biopolitics can enrich our analysis is in moving beyond the immediate questions of *why* (why those groups were targeted in the way that they were) and the *how* (what was the nature of the measures to

which they were subjected) and give an account that speaks to what I will call ‘the why *of* the how’. This is an argument for biopolitics as a theoretical frame that shows the relationship between aspects of the case that other studies have not tied together. Biopolitics, I will argue, offers an answer not just to why the Criminal Tribes were perceived as such an extraordinary threat to the political order, but why that perception necessarily entailed the deployment of those specific techniques of control and management that I argue are distinctively biopolitical. This chapter represents the first half of our historical case study, insofar as it sets out the historical material that I then intend to read through the lenses of ‘common core’ and Agambenian biopolitics.

The final chapter (‘Biopolitics and the Criminal Tribes System’) brings together all three preceding chapters to conduct an original biopolitical reading of the Criminal Tribes system of British India. I will proceed through three sections:

- ‘Application of the ‘common core’ model’ – my first objective is to assess the extent to which the material conditions of the Criminal Tribes system can be seen to exhibit the four characteristics identified as the ‘common core’ of the traditional biopolitical perspective;
- ‘Application of the Agambenian Model’ – I will then move on to assess the case study against the five characteristics of a distinctly Agambenian biopolitics, with the objective of showing that the use of a biopolitical frame derived from the distinctive features of Agamben’s biopolitics offers a more coherent and convincing account for the motivations and modes of operation of the Criminal Tribes system;
- ‘The ‘Labour Turn’ – to conclude the chapter, I reflect on how a biopolitical analysis of the Criminal Tribes system led me to identify three distinct phases in the CT system,

with differing apparent objectives, and that the final form of the CT system abandoned biopolitical management and reconstruction of the ways of life of inmates in favour of a primarily expropriative, labour-focused mode of operation.

I will then conclude this thesis ('Conclusions') with a re-statement of the claims to originality with which I have opened this section, making the case that each of them has been properly argued for and demonstrated within the four chapters of this thesis. I will move on to indicate the places in which this contribution may prompt further study in the future.

All that remains for this introduction is to survey the existing scholarship that has made my own study, sited at the intersection of the political theory of biopolitics and the historical study of European colonialism, possible.

Biopolitics and Colonial Modernity: Literature review

Before moving into the thesis proper, I wish to acknowledge and signpost the reader toward those works that have made this project possible. This investigation takes place at a precise theoretical and historical position, the intersection of the political theory of biopolitics (in particular, Agamben's biopolitics) and the historical study of empire (particularly the British Empire, and the Criminal Tribes system of British India). In what follows, I will show how this area of investigation was progressively opened by a number of works of political theory and history.

As an organisational scheme, and also a gesture at the equitable balance between political theory and history that is one of the central concerns of this thesis, I have separated these works into two distinct sequences. Firstly, I will examine the development of the field from within the tradition of political theory, beginning with Ann Laura Stoler's challenge to Foucault's colonial blindspot, and moving through the contributions of Hardt and Negri,

Achille Mbembe, and edited collections from Ophir et al. and Svirsky and Bignall. I will then trace the precursors to this project within the field of history, beginning with Bernard Cohn's work on the relationship between forms of knowledge and empire, and moving on to highlight the contributions of Matthew Edney, Clare Anderson, Stephen Legg, and Aidan Forth, to creating the conditions of possibility for my own study. Finally, I will reflect on where else these developments have led, making reference to recent works on biopolitics and American history (Mona Domosh, Juliet Nebolon), biopolitics and British colonialism (Premesh Lalu, Anna Clark), and biopolitics and settler colonialism (Scott Lauria Morgensen, Rene Dietrich, David Myer Temin). This project is designed to build upon, and between, these innovative and important works of political theory and history. In so doing, I hope to join those scholars already engaged in fruitful research centred on the valuable analytical space that these works have opened.

Finally, one word of caveat relating to the 'Criminal Tribes' literature. I have not included historical literature focused exclusively on the Criminal Tribes system within this review. My aim here is to give the reader a brief orientation to the works that underpin the theoretical basis of this thesis – those works that opened the space, to differing extents, for the articulation of biopolitics and British colonial history. I will, however, recognise and discuss a substantial body of historical scholarship on the Criminal Tribes legislation and settlement system in Chapter Three, which is the historical case study at the centre of this thesis.²

² See section 3.1 'Themes in the history and historiography of the Criminal Tribes system', pp.151-177.

Political Theory Scholarship

Ann Laura Stoler

The first significant work in the opening of my particular field of interest is Ann Laura Stoler's 1995 work *Race and the Education of Desire*.³ In it, Stoler moves to correct what she identifies as a colonial blindspot in Foucault's *History of Sexuality*. What Foucault's analysis had missed, she argues, is the centrality of the colonial 'other' in the creation of the modern, bourgeois, European individual that Foucault targets in his study.⁴ Stoler attributes Foucault's oversight of the colonial question to an implicit, and limiting, eurocentrism in Foucault's *History of Sexuality*, arguing that colonialism was 'outside of his analytic concern' and, when theorised, only conceived of as a 'by-product of Europe's internal and permanent state of war with itself'.⁵

Stoler develops three arguments of particular importance to this project. Firstly, by uncovering the unacknowledged colonial context of the concepts developed by Foucault in the *History of Sexuality*, she identifies a blind spot that carries over into Foucault's biopolitics,

³ Stoler, A. L. *Race and the Education of Desire: Foucault's History of Sexuality and the colonial order of things*. Durham, N.C.; Duke University Press, 1995.

⁴ Stoler, *Race and the Education of Desire*, 5-7.

⁵ Stoler, *Race and the Education of Desire*, 28. The question of the extent and consequences of Foucault's Eurocentrism, and the challenges that this presents to thinkers and disciplines engaging with his work (particularly in the context of postcolonial scholarship) remains a current one. As a comprehensive case for Eurocentrism in Foucault's theory of biopolitics, in addition to a wider critique of the 'Foucauldian Security Studies' sub-discipline within contemporary International Relations theory, see Alison Howell's and Melanie Richter-Montpetit's 'Racism in Foucauldian Security Studies: Biopolitics, Liberal War, and the Whitewashing of Colonial and Racial Violence', *International Political Sociology* (2019) 13, 2-19, 5-7. On the wider question of Eurocentrism in Foucault's ethics and philosophy, Robbie Shilliam's 'Decolonising the Grounds of Ethical Inquiry: A Dialogue between Kant, Foucault and Glissant', *Millennium: Journal of International Studies* 39(3) 649-665 (2011), 657-658; and, Karlis Racevskis', 'Edward Said and Michel Foucault: Affinities and Dissonances', *Research in African Literatures*, Vol. 36, No. 3, (Autumn, 2005), 83-97, particularly 90-94. A counterpoint, arguing that the North African influences on Foucault's theory (among others) has been whitewashed through his classification as a French/European thinker, see John Keenan & Karima Kadi-Hanifi (2019): 'Epistemological mooring. Repositioning Foucault, Bourdieu and Derrida theory to its Northern African origins', in *Teaching in Higher Education* (2019), DOI: 10.1080/13562517.2019.1688781

and therefore potentially Agamben's. One of Stoler's striking opening remarks remains as applicable to Agamben's work in *Homo Sacer*:

An inducement for students of colonialism to work out Foucault's genealogies on a broader imperial map should be spurred simply by their glaring absence.⁶

Secondly, Stoler demonstrates the benefits of bringing the unacknowledged colonial context to the fore in Foucault. For example, seeing the European 'class body' of Foucault's analysis as historically prefigured by the creation of racial/colonial bodies.⁷ In doing so, her work doesn't undermine the *History of Sexuality*, instead it locates it within a context that makes the project more historically legible, and therefore, in my view, a more sustainable theoretical endeavour. To explore the possibility of making a similar contribution to *Homo Sacer*'s biopolitical analysis is one of the overarching themes this project. Finally, Stoler provides an account of how race, particularly the concept of race as it developed in the colonies, influenced the distinctions, language, and politics of the European societies that were the target of Foucault's investigation.⁸ Stoler shows us how conditions that Foucault observed in Europe and used as the basis for his biopolitics could have been conditioned by the 'import' of discourses and practices founded in the colonies, making the imperial context essential to a full understanding of the concept – this is precisely my position in relation to *Homo Sacer*.

More recently, in her 2016 study *Duress*, Stoler investigates methodological and historiographical challenges for researchers working on the history of imperialism and its contemporary legacies.⁹ Her third chapter 'A Deadly Embrace: Of Colony and Camp' argues

⁶ Stoler, *Race and the Education of Desire*, 19.

⁷ Stoler, *Race and the Education of Desire*, 53.

⁸ Stoler, *Race and the Education of Desire*, 5 and 15-16. Citing (among others) Sidney Mintz on large-scale industrial production; Timothy Mitchell on 'panopticon'-like carceral institutions; and, both Gwendolyn Wright and Paul Rabinow on urban planning practices.

⁹ Stoler, A. L. *Duress: Imperial Durabilities in Our Times* (Durham, NC. and London; Duke University Press, 2016)

for the constitutive connection between the concepts of colony and concentration camp.¹⁰

This is an enlightening discussion on a complex relationship and highly relevant to this study.

Hardt and Negri

A second theoretical work located at the intersection of biopolitics and empire is the eponymous first book of the 'Empire' trilogy, by Michael Hardt and Antonio Negri.¹¹ Their concern is with a different form of empire, based on a reading of post-cold war international relations,¹² but makes two significant contributions to my area of study, in the form of their own distinctive reading of the functions and operations of European empires, and a critique of Foucauldian materialism that I argue can also make a case for the use of Agamben.

In the historical discussion that works as the precursor to their main analysis in *Empire*, Hardt and Negri argue for three functions of the earlier (i.e. modern) European empires that are of particular interest.¹³ Firstly, Hardt and Negri offer an account of one of the principal motivations of imperial power in the colonies as a 'police power', driven to control the population and, especially, to identify and remove 'singularities', people or communities whose way of life presents a particular challenge to the coloniser's concept of social order and the operation of colonial sovereign power.¹⁴ This maps onto one of the elements of our

¹⁰ Stoler, *Duress*, 68-121.

¹¹ Hardt, M., and Negri, A. *Empire*. Cambridge, MA; Harvard University Press, 2001.

¹² Hardt and Negri, *Empire*, xi-xiv, 4-5. See also, Marks, S. 'Empire's Law', in *Indiana Journal of Global Legal Studies*, Vol. 10, No. 1 (Winter 2003), 449-465. 463; and, Mills, C. *Biopolitics* (Abingdon; Routledge, 2018). 85. *Empire* is not without its critics, although we do not intend to engage in a substantial discussion of the reception of their work. From a Marxist/leftist perspective, Barkawi and Laffey's paper on the whitewashing of US imperialism via *Empire*'s claim of US exceptionalism has been influential. 'Retrieving the Imperial: Empire and International Relations', in *Millennium: Journal of International Studies*, Vol. 31, No. 1 (2002), 109-127. In postcolonial scholarship, Hardt and Negri's work has been criticised as Eurocentric for its attempts to theorise universal, global forms of resistance based upon specifically European material/political conditions and thought. See, for example, Kim, J. 'Metropolitanism and postcoloniality in Hardt and Negri's Empire trilogy', in *Journal of Postcolonial Writing*, 51:6 (2015), 672-684; or, Schueller, M. J. 'Decolonizing Global Theories Today', in *Interventions*, 11:2 (2009), 235-254.

¹³ Hardt and Negri, *Empire*, section 2.3 'The dialectics of colonial sovereignty', 114-136.

¹⁴ Hardt and Negri, *Empire*, 87-90.

‘common core’ of biopolitics as the ‘population’ appears in this account as a target for intervention by colonial power – to remove those who cannot be easily incorporated or assimilated.¹⁵ Secondly, *Empire* also extends another prominent line of Foucauldian thought, that of the spatial dimensions of power. Hardt and Negri argue that one of the most important aspects of the European empires was their conception of empires as closed, imperial spaces.¹⁶ They argue that each empire conceived of itself and sought to operate as an exclusive and alternative world-system to all the others, and dominating the territories and peoples under their control.¹⁷ In Chapter One, I will show how understanding ‘politics as spatial administration’ is one of the hallmarks of Foucault-derived biopolitical analysis, also present in Agamben’s *Homo Sacer*, and one of the key elements that my work on the ‘Criminal Tribes’ system of British India will investigate.¹⁸ Thirdly, *Empire* argues for two clear examples of the way in which European colonial projects were made possible by the production and imposition of specific forms of knowledge. Both colonial anthropology, and the ‘British creation of an Indian history’ are cited as forms of knowledge used as tools to achieve colonial domination of indigenous peoples and to prevent potential rebellion.¹⁹ Whilst this is no dramatic departure, or even development, of the similar lines of thought generated by Foucault, it serves to reinforce the continuing utility and centrality of this concept, which we will later discuss as the ‘epistemic foundations’ of biopolitics, and as ‘epistemic imperialism’, or ‘conquest by knowledge production’, in its colonial contexts.²⁰

¹⁵ See section 1.2 ‘population as object’ (pp.46-55), and its application to the case study at 4.1.2 (pp.253-261).

¹⁶ Hardt and Negri, *Empire*, xii.

¹⁷ Hardt and Negri, 166-167, 182.

¹⁸ Sections 1.3 ‘politics as spatial administration’ (pp.55-66), and application to case study at 4.1.3 (pp.261-264)

¹⁹ Hardt and Negri, *Empire*, 125-126.

²⁰ Section 1.4 ‘epistemic foundations’ (pp.67-86), and application to case study at 4.1.4 (pp.265-274).

Hardt and Negri also make a useful critique of Foucault's biopolitics in the course of their argument. They argue that Foucauldian biopolitics is fixated on economic production and the use of disciplinary technologies to optimise economic production,²¹ rather than examining production in the context of the more important realm of social life itself:

...if at this point we were to ask Foucault who or what drives the system, or rather, who is the "bios", his response would be ineffable or nothing at all. What Foucault fails to grasp finally are the real dynamics of production in biopolitical society."²²

What interests me about this criticism is that it echoes elements my argument for the utility of Agamben's biopolitics. In Chapter Two, I argue that a central characteristic of Agamben's biopolitics is the concept 'form of life'. I will show that this concept recognises the question of 'who is the "bios?"' as central to the structures and governing discourses of western political orders.²³ Whilst Hardt and Negri turn to poststructuralism to overcome this limitation in Foucault,²⁴ I will show that Agamben's biopolitics can perform the same function through its application to the material case study drawn from the history of colonial India.

Achille Mbembe

The third theoretical work that played a key role in opening of this field is Achille Mbembe's influential essay 'Necropolitics'.²⁵ Mbembe sought to theorise biopolitics from a subaltern position, countering the implicit Eurocentrism of existing biopolitics through a focus on the systemic violence, colonial legacies, and paramilitary 'war machines', that typify the

²¹ Hardt and Negri, *Empire*, 24.

²² Hardt and Negri, *Empire*, 28.

²³ See section 2.5 'Form of life', pp.127-131.

²⁴ Hardt and Negri, *Empire*, 28. *Empire's* development of a poststructuralist biopolitics has been followed by similar initiatives (albeit tending to emphasise Derrida over Deleuze and Guattari). See, for example, Jenny Edkins 'Whatever Singularity' in Calarco and DeCaroli (eds.) *Giorgio Agamben: Sovereignty and Life*, Stanford, Stanford University Press, 2007; and, Debrix and Barder, *Beyond Biopolitics*, London; Routledge, 2012.

²⁵ Mbembe, A. 'Necropolitics', in *Public Culture*, Vol. 15, No. 1 (Winter 2003), 11-40.

contemporary extraction economies of the African postcolony. As with Hardt and Negri, Mbembe is primarily theorising the present moment, but does so by first excavating the colonial legacies that are still conditioning elements of contemporary power.²⁶

The conceptual distinction between biopolitics and ‘necropolitics’ is central to Mbembe’s claim of originality in the field. Mbembe argues that the existing concept of biopower alone is insufficient to account for conditions in many countries of the global South.²⁷ The idea of traditional, Foucauldian biopolitics, that biopower focuses upon the production of docile bodies better able to produce, that is, to integrate into and support whatever form of political economy is being developed by the state, leads Mbembe to consider the non-/anti-productive forms of injury, murder, massacre, etc., present in postcolonial states as evidence for a non-biopolitical logic at work.²⁸

In the context of this project, four elements of his analysis lead directly to my own study. With a view to the historical analysis of colonialism, Mbembe’s work supports two of the ‘common core’ arguments of biopolitics. He identifies elements that map onto the ‘common core’ concepts of ‘control of bodies’ and ‘politics as spatial administration’ as fundamental to his account of the operation of necropolitical power.²⁹ Regarding the body, bio/necropolitical power is primarily actualised through control of bodies:

If power still depends on tight control over bodies (or on concentrating them in camps), the new technologies of destruction are less concerned with inscribing bodies within disciplinary apparatuses as

²⁶ Mbembe, ‘Necropolitics’, 18, and 21-24.

²⁷ Mbembe, ‘Necropolitics’, 39-40.

²⁸ *Ibid.*

²⁹ These will both be elaborated in more detail in Chapter One (‘control of bodies’, pp.38-46; ‘...spatial administration’, pp.55-66).

inscribing them, when the time comes, within the order of the maximal economy of destruction now represented by the “massacre.”³⁰

There is clear continuity and development, therefore, from the processes that we can recognise as Foucauldian biopolitics (“inscribing bodies within disciplinary apparatuses”) to the conditions of bodily exposure to violence, injury, and death that Mbembe sees as constitutive of the necropolitical condition.³¹ In relation to space, Mbembe understands colonialism from the beginning as a process of ‘seizing, delimiting and asserting control over a physical, geographical area – of writing on the ground a new set of social and spatial relations.’³² Mbembe’s historical narrative moves from the plantations and colonies, through the *Bantus* of Apartheid South Africa, to the contemporary occupation of Palestine to show that the spatial aspect of sovereign power has remained at the centre of its operations throughout.³³

Mbembe’s work also shows by example the limiting effects of the Eurocentric focuses of Foucault and Agamben, forming a critique which scholars following on from ‘Necropolitics’ have made clearer, and with which I concur.³⁴ Finally, Mbembe’s account of acts of violence and exclusion as necropolitical forms of ‘social death’, echoing Foucault, is an important

³⁰ Mbembe, ‘Necropolitics’, 34.

³¹ ‘Necropolitics’, 40. See also, Chung, Y. B. ‘Governing a Liminal Land Deal: The Biopolitics and Necropolitics of Gender’, in *Antipode*, Vol. 52, No. 3 (May 2020), 722-740. 724.

³² ‘Necropolitics’, 25.

³³ ‘Necropolitics’, 26-27 (further spatial analysis of Palestine and present-day warfare, 29). Walter brings an Mbembe-derived analysis of the operation of power upon ‘bodies and spaces’ in his analysis of the “Marikana Massacre” in South Africa, see Walter, P. F. ‘Spectral Alphabets: Photography, Necropolitics, and the Marikana Massacre’, in *Cultural Critique*, Vol. 93 (Spring 2016), 1-31. 5-6. This position has also been adopted by McIntyre and Nast, in their work on reading Foucault and Mbembe in the key of Marxist international relations. They argue that colonialism is typified by ‘racially ontologized hierarchies of spaces’ which permit differential forms and extents of exploitation of the lands and bodies contained therein. McIntyre, M. and Nast, H. ‘Bio(necro)polis: Marx, Surplus Populations, and the Spatial Dialectics of Reproduction and “Race”’, in *Antipode*, Vol. 43 No. 5 (2011), 1465–1488. 1466.

³⁴ See Davies, T., Isakjee, A., and Dhesi, S. ‘Violent Inaction: The Necropolitical Experience of Refugees in Europe’, in *Antipode*, Vol. 49, No. 5 (2017), 1263-1284. 1268; and Chung, Y. B. ‘Governing a Liminal Land Deal: The Biopolitics and Necropolitics of Gender’, in *Antipode*, Vol. 52, No. 3 (May 2020), 722-740. 726.

frame for considering many acts of colonial exclusion, including this case study of the ‘Criminal Tribes’ system.³⁵ Each of these developments have been critically important in opening up the space within which this project takes place.

Ophir, Givoni, Hanafi

The next significant work in the political theory line of development is Adi Ophir et al.’s collection *The Power of Inclusive Exclusion*.³⁶ Like Mbembe, their principal historical focus is on the contemporary conditions of the Occupied Palestinian Territory, and they use many of this project’s key thinkers to form the base of their interpretation. This work is remarkable for the sophistication and extent of its use of Foucault and Agamben in developing their analytical frame, and simultaneously for the depth of detail in their case study. In this way, it forms a direct, and successful, forerunner for my own attempt to bring a more theoretically-informed biopolitics to a historical case study, whilst achieving a deeper level of historical engagement with the actual subject matter than is common for works of political theory.

The authors within the collection engage Foucault consistently, as can be seen, for example, in Azoulay and Ophir’s use of Foucault in their description of the deployment of violence and structures for the administration of the violence of occupation.³⁷ Neve Gordon goes further into the specific engagement of Foucauldian concepts of biopower and biopolitics in relation

³⁵ Mbembe, ‘Necropolitics’, 21 (viz. slavery) and 38-39 (viz. Palestine). This has been further developed recently by Molloy’s discussion of colonial Ireland, in which he argues that the attempt to Anglicise the Irish (‘reform them out of existence’) is necropolitical. Molloy, E. ‘Racial capitalism, hauntology and the politics of death in Ireland’, in *Identities* (2019), DOI: 10.1080/1070289X.2019.1658395. 7. Foucault on exclusion and social death, *Society Must Be Defended*, 256.

³⁶ Ophir, A, Givoni, M, and Hanafi, S. (eds.), *The Power of Inclusive Exclusion: Anatomy of Israeli rule in the Occupied Palestinian Territories* (New York; Zone Books, 2009).

³⁷ Azoulay, A., and Ophir, A. ‘The Order of Violence’, in *The Power of Inclusive Exclusion*. 99-140. 101-102 and 11-112.

to the operation of occupying power.³⁸ In an exemplary essay tying contemporary conditions in the Occupied Palestinian Territories to earlier forms of British colonial occupation (particularly Egypt and India), Yehouda Shenhav and Yael Berda develop a sophisticated reading of Agamben (bringing the Schmittian concept of ‘political theology’ into their discussion of Agamben and the ‘exception’) and make an important critique of his lack of engagement with colonialism as a precursor to modern/contemporary conditions.³⁹ The use of Agamben is similarly tempered by the series editors in their introduction when they note that ‘[p]lace Agamben, the thick description of the occupation regime in this volume shows that the suspension of law and the forsaking of life do not completely overlap’.⁴⁰ The fact that the authors go into such deep historical and legal detail to build their arguments not only shows *how* they are able to arrive at this valid correction to the very broad reading of the relationship between exception and ‘bare life’ offered by Agamben, as applied to modern historical-political instances, but also demonstrates the value to improving our understanding of political theory by doing so.

There are three elements of analysis in the collection that I wish to draw attention to in relation to this thesis. Firstly, in relation to the concept of ‘control of bodies’ as part of the ‘common core’ of biopolitical analysis, Gordon’s remarks on disciplinary power and the restriction of physical movement are instructive.⁴¹ Secondly, there is a strong spatial element to much of the analysis in *The Power of Inclusive Exclusion*. In particular, Ariella Azoulay’s visual essay ‘The (In)Human Spatial Condition’, takes a theoretically sophisticated and

³⁸ Gordon, N. ‘From Colonization to Separation: Exploring the Structure of Israel’s Occupation’, in *The Power of Inclusive Exclusion*. 239-268. 243-244.

³⁹ Shenhav, Y. and Berda, Y. ‘The Colonial Foundations of the State of Exception: Juxtaposing the Israeli Occupation of the Palestinian Territories with Colonial Bureaucratic History’, in *The Power of Inclusive Exclusion*. 337-374. 343-346.

⁴⁰ Ophir, A., Givoni, M., and Hanafi, S. ‘Introduction’, in *The Power of Inclusive Exclusion*. 13-30. 23.

⁴¹ Gordon, ‘From Colonization to Separation’, 243-244.

detailed look at the division and administration of the patchwork of differentially-constructed spaces that make up the occupied territories.⁴² Gordon's contribution also provides a comprehensive description and analysis of the variegation of spaces, all with distinctive statuses codified into administrative practice, resulting from the Oslo Accords. Both of these discussions underline the centrality of the administration of spaces to the operation of contemporary power, and I will do the same for the understanding of biopolitical power in Chapter One.⁴³ Finally, in Ben-Naftali, Gross, and Michaeli's discussion of the network of separate legal systems, to which different groups are subject in the Occupied Palestinian Territories on the basis of their ethnicity, we see a valuable link to our identification of 'Regimes of Exception' as one of the key distinguishing features of Agamben's biopolitics.⁴⁴ I do not argue that the exception is the absence of law, a reductive reading along the same lines that Ophir et al. caution against in their introduction, but that the differential application of legal systems and standards to different groups within the same political-legal order, should be seen as a form of Agambenian exception. If this contention holds, then the detailed work of Ben-Naftali et al. in their essay will provide an important material foundation for the application of this concept.

Svirsky and Bignall

The missing colonial context for Agamben's biopolitics, raised by Shenhav and Berda in *The Power of Inclusive Exclusion*, formed the central concern of Svirsky and Bignall's collection *Agamben and Colonialism*, published in 2012 (to which Shenhav makes a contribution).⁴⁵ This

⁴² Azoulay, A. 'The (In)Human Spatial Condition', in *The Power of Inclusive Exclusion*, 153-178.

⁴³ Section 1.3 'Politics as spatial administration', pp.55-66.

⁴⁴ Ben-Naftali, O., Gross A., and Michaeli, K. 'The Illegality of the Occupation Regime: The Fabric of Law in the Occupied Palestinian Territories, in *The Power of Inclusive Exclusion*. 31-88. 46-49.

⁴⁵ Svirsky, M. and Bignall, S. (eds.) *Agamben and Colonialism* (Edinburgh; Edinburgh University Press, 2012).

was a welcome volume, the first that finally takes in, at a much wider level of historical resolution, the potential applications of Agamben-derived biopolitics to questions of colonial history. Whilst each entry is worthy of separate and longer discussion, there are a few pieces that are of a particular interest to this project and serve as an example of the significance and quality of discussion in the wider collection.

Shenhav's essay opens the collection and immediately sketches out the link that exists between the British emergency response to the 2005 London Tube bombings (and thus, standing in for the wider western exceptional response to contemporary acts of terrorism) to the legal and extra-legal forms of British colonial administration developed principally in Egypt.⁴⁶ Mark Rifkin's chapter, *Indigenising Agamben*, has been influential in the field, and applies both the Agambenian exception and the notions of the 'camp' and acts of 'inclusive exclusion' to the history of the United States and indigenous North American tribes, looking at land politics, reservations, and ongoing legal struggles that form the historical consequences of the establishment of the American settler-colonial state.⁴⁷ For readers with an interest in colonial anti-nomadism, which forms a very important part of the historical context for the development of the Criminal Tribes system, David Atkinson's reflections on the incarceration of Bedouin tribes in colonial concentration camps in Italian Libya opens up a little-explored and potentially significant area of interest.⁴⁸

The scope of *Agamben and Colonialism* is wide, and all of its case studies (including entries on contemporary Russia, British Kenya, the city of Buenos Aires, and more) discussed in

⁴⁶ Shenhav, Y. 'Imperialism, Exception and the Contemporary World', in *Agamben and Colonialism*, 17-31. 23-26.

⁴⁷ Rifkin, M. 'Indigenising Agamben', in *Agamben and Colonialism*, 77-109.

⁴⁸ Atkinson, D. 'Encountering Bare Life in Italian Libya and Colonial Amnesia in Agamben', in *Agamben and Colonialism*, 155-176. In particular, 160-166.

reasonable detail. The lack of any article on India (the Raj does feature occasionally as a point of comparison, but never a central focus) indicates one of the gaps in Agamben commentary that this project aims to fill.

This sequence of political theory works progressively opened the analytical space that has made my own investigation into Agamben's biopolitics and the Criminal Tribes system possible. This thesis, however, has not drawn its inspiration exclusively from the discipline of political theory, nor does it seek to limit its potential contribution to that area of scholarly debate. I turn now to the equally important historical antecedents of my research.

History Scholarship

Bernard Cohn

Firstly, whilst my discussion of the 'epistemic foundations' of biopolitics (the concept of 'conquest by knowledge production') proceeds directly from Foucault, the work of Bernard Cohn (particularly *Colonialism and its forms of knowledge*) remains a masterwork in the historical application of this idea.⁴⁹ Cohn gives a detailed reading of the ways in which epistemic concepts (language, law, antiquarianism in relation to objects, and clothing) all developed into tools for the material subjugation of Indian life and culture to British administrative hegemony. I discuss the idea that knowledge and its creation forms a precursor step toward conquest in general in Chapter One, and with particular regard to India and the 'Criminal Tribes' system, making use of Cohn, in Chapter Four.⁵⁰ Whilst Cohn acknowledges the influence of Foucault in his analytical model and method of argument,⁵¹ it speaks to the

⁴⁹ Cohn, B. *Colonialism and its forms of knowledge: The British in India* (New Jersey; Princeton University Press, 1996).

⁵⁰ Section 1.4 'epistemic foundations' (pp.67-86), and application to case study at 4.1.4 (pp.265-274).

⁵¹ Cohn, *Colonialism and its forms of knowledge*, 22.

lack of the substantive connection between biopolitical theory and history proper that Foucault is not more prominent in the exegesis, and even more so that political theorists such as Hardt and Negri can make cursory reference to ‘the British creation of an Indian history’ without substantive reference to Cohn’s work.

Matthew Edney

The second work in the historical line of development for this project is Matthew Edney’s *Mapping an Empire*.⁵² With substantive references to Foucault, Edney’s work examines both the ideologies that underpinned the drive to map India, as a method of quantifying and thus materialising, British imperial control, and the physical institutions and historical practices of the mapping itself. I will argue for ‘politics as spatial administration’ to be seen as part of a ‘common core’ of the operation of biopolitical power.⁵³ In the same way that Cohn shows us how the concept of ‘epistemic imperialism’ can be traced, at incredible levels of historical detail, in a material case study, Edney shows both the theoretical and ideological foundations and the material historical practices that can demonstrate the realities of ‘politics as spatial administration’. Biopolitics scholars with an interest in either aspect will find important material to work with and, I would argue, a template for theoretically-informed and detailed historical case study in both works.

Clare Anderson

One of the first historical works to open up the exact ground upon which our thesis is based, is Clare Anderson’s *Legible Bodies*.⁵⁴ Anderson’s work maintains a consistent engagement

⁵² Edney, M. H. *Mapping an Empire: The Geographical Construction of British India, 1765-1843* (Chicago; Chicago University Press, 1997).

⁵³ Section 1.3 ‘Politics as spatial administration’, pp.55-66.

⁵⁴ Anderson, C. *Legible Bodies: Race, Criminality and Colonialism in South Asia* (Oxford; Berg, 2004).

with Foucauldian analyses applied to the question of colonial crime and punishment in British India, including a disciplinary reading of prisons and reformatory/labour settlements, and framing the phenomenon of the photography of Indian criminals in terms of the power/knowledge dynamic that motivates much of Foucault's thought.⁵⁵ The 'Criminal Tribes' system, its legislative Acts, settlement system, and associated history feature prominently throughout the book. Anderson's analysis also overlaps with a number of the 'common core' elements of biopolitics that we argue for in Chapter One.

In terms of 'control of bodies', Anderson provides a detailed reading of the way in which colonial power creates and acts upon the bodies of those identified as criminals, including discussions of the significance of fingerprinting and other forms of anthropometry, physical dress and ornamentation, and the measurement and cataloguing of individual bodies.⁵⁶ She also discusses the spatial dimensions of colonial power, identifying the creation and disruption of space as one of the objectives of British colonial penalty on the subcontinent, and quoting Nicholas Dirks' assertion that the objective of the 'creation of colonized spaces' underwrote colonial knowledge production (such as surveys, censuses, and so on.)⁵⁷ These aspects of Anderson's study map onto our position of 'politics as spatial administration' being a central part of the 'common core' of biopolitical accounts of power. Finally, in relation to the idea of 'epistemic foundations', *Legible Bodies* offers analyses of both the use of ethnography in the attempt to identify criminal individuals and communities through

⁵⁵ Anderson, *Legible Bodies*, 81-82 (Foucauldian discipline and prisons/settlements); 141-142 (colonial criminal photography and *pouvoir/savoir*). Foucault and the power/knowledge relationship are further discussed in the 'epistemic foundations' section of Chapter One, pp.67-86.

⁵⁶ Anderson, *Legible Bodies*, 163-164 and 168 (anthropometry/fingerprints); 130 (clothing); 81 (body measurement).

⁵⁷ Anderson, *Legible Bodies*, 2-3 (disruption of spaces); 57 (colonised spaces).

artefacts such as tattoos, and wider discourse relating to clothing and language as similar indications of criminality as constructed by the British authorities and associated 'experts'.⁵⁸

Where there is less engagement with the area of my particular area of interest is in the lack of discussion of Giorgio Agamben's biopolitics and its potential utility in developing a coherent account of some of the mechanisms and operations of colonial carceral power that feature in Anderson's studies. My aim in Chapter Two is to provide an account of where Agamben's biopolitics can be seen as distinct from Foucault's, and thus create a reasonable theoretical test for whether the application of Agamben over Foucault, in respect of the Criminal Tribes system, renders additional analytical value. With Anderson's area of study being one of the closest to my own in the extant literature, I hope that this thesis, if successful, will prompt a new dialogue with those historians already making valuable use of Foucault in their work on colonial penal systems on the (improved) use of Agamben.

Stephen Legg

Readers looking for an equally well-developed application of Foucault to colonial India would also be rewarded in examining the work of historian Stephen Legg. In *Spaces of Colonialism*, Legg uses a Foucauldian spatial analysis to explore the British planning and construction of New Delhi.⁵⁹ Following on from that earlier work, his *Prostitution and the Ends of Empire* makes a detailed survey of the discursive and material conditions surrounding sex work in interwar Delhi.⁶⁰ The significance of the latter work in the context of this project is made clear in Legg's discussion of Agamben, and his belief that Agamben's work (in particular, the

⁵⁸ Anderson, *Legible Bodies*, 86-88 (ethnography); 128 (clothing)

⁵⁹ Legg, S. *Spaces of colonialism: Delhi's urban governmentalities* (Malden, MA; Blackwell, 2007).

⁶⁰ Legg, S. *Prostitution and the Ends of Empire: Scale, governmentalities, and interwar India* (Durham, NC; Duke University Press, 2014).

concept of abandonment) 'is more useful than abstract and nihilistic speculation over states of exception and bare life'.⁶¹ This is precisely my position in relation to his use in both history and in some of his more reductive appearances in political theory.

Legg's development of Agamben's biopolitics in the context of his own work is an exemplary discussion, and his application to the historical case study of prostitution in colonial India very well constructed.⁶² As with Anderson, Legg's application of Foucault to colonial history is theoretically sophisticated and an ample demonstration of the value of using biopolitics as an analytical frame in this area of inquiry. Further, his discussion and application of Agamben in the field of colonial history is the best developed that I have encountered in the literature and a close approximation of the contribution that this thesis aims to make.

Aidan Forth

The final marker, chronologically speaking, on the historical line of development for this thesis is Aidan Forth's *Barbed Wire Imperialism*.⁶³ This important study of concentration camps across the British Empire, with its Indian focus primarily on famine and plague camps, contains a small but significant section of analysis of the 'Criminal Tribes' settlements.⁶⁴ Forth also makes a number of references to Agamben, locating the work at the intersection of biopolitics and empire that interests us. However, it is not Forth's use of Agamben that marks his significance. Whilst it is clearly sufficient for his historical purposes, Forth's discussion of Agamben is limited to a relatively surface-level of engagement with the concepts of the 'exception', 'bare life', and the 'camp'.⁶⁵ Where *Barbed Wire Imperialism* serves as an

⁶¹ Legg, *Prostitution and the Ends of Empire*, 16.

⁶² Legg, *Prostitution and the Ends of Empire*, 48-52 (Agamben discussion) and 73-74 (example of application).

⁶³ Forth, A. *Barbed Wire Imperialism: Britain's Empire of Camps, 1876-1903* (Oakland, CA; University of California Press, 2017).

⁶⁴ Forth, *Barbed Wire Imperialism*, 34-42.

⁶⁵ Forth, *Barbed Wire Imperialism*, 6 and 58 (exception), 52 (bare life), 225 (camps)

inspiration for this project is in the depth of historical detail of the location and operation of these institutions. This thesis hopes to extend a similar respect for historical detail in our investigation of the Criminal Tribes legislation and settlement system, whilst also demonstrating how a more theoretically-informed concept of Agambenian biopolitics, along the lines practised by Legg, could further enrich these and similar historical analyses of European colonial modernity.

Current Developments

Finally, to complete both threads of this key literature review, I would like to indicate some of the areas of current discussion of biopolitics and empire in recent research articles. In the context of American history, Mona Domosh traced the lines of connection between the 'Jim Crow' systems of racialised segregation in the American South and British colonial administrations of mid twentieth-century Africa.⁶⁶ The area of knowledge exchange in the development of concentration camp systems is one to which I will return in my discussion of accounts of the 'epistemic foundations' of biopolitical power.⁶⁷ Domosh's piece demonstrates the importance of similar work on the circuits of administrative knowledge that enabled similar systems of exclusion and oppression to move between states. On a similar topic, Juliet Nebolon has written on the biopolitics of the American administration of Hawaii, drawing from Foucauldian biopolitics to examine discourses of assimilation and the operation of biopower (in the form of immunisation programmes, for example) in what was, at the time, still essentially a US colony.⁶⁸

⁶⁶ Domosh, M. 'Race, biopolitics and liberal development from the Jim Crow South to postwar Africa', in *Transactions of the Institute of British Geographers*, 43 (2018). 312-324. <https://doi.org/10.1111/tran.12231>

⁶⁷ Section 1.4 'Epistemic foundations', pp.67-86.

⁶⁸ Nebolon, J. "'Life Given Straight from the Heart": Settler Militarism, Biopolitics and Public Health in Hawai'i during World War II', in *American Quarterly*, Volume 69, No.1 (March 2017), 23-45.

Interest in biopolitics and British colonialism has also continued to develop. In 2015, Premesh Lalu examined the colonial legacies of British administration in South Africa as the basis for a concept of 'South African empire'.⁶⁹ Lalu's intention is to develop a concept capable of acknowledging the roots in colonial biopolitics of the South African apartheid state and also creating a basis for a counter-hegemonic account of South Africa's development that can resist the traditional nationalist political narrative.⁷⁰ This paper is particularly valuable for those scholars interested in racially-based land segregation in South Africa, the wider 'Native Question', and the relationship of both phenomena to the nominal 'liberalism' of colonial administrative discourse. Anna Clark has worked to bring to light the relationship between biopolitical forms of power and the human rights and humanitarian discourses that often underwrote them in the British Empire.⁷¹ She argues for some of the notable events of late nineteenth-century imperial history, such as plague outbreaks and concentration camps for plague victims in India and the Boer War camps system of South Africa, as instances of 'humanitarian imperialism'.⁷² These initiatives, and others throughout the empire, are described as biopolitical in nature but discursively framed as humanitarian endeavours – making clear the double-edged nature of biopolitics as a machine capable of both caring for life but also always at risk of creating structures of domination.⁷³

One final area of interest developing at the intersection of biopolitics and empire concerns the concept of 'settler colonialism', itself a topic of increasing prominence in the fields of modern and contemporary history. One of the earlier papers explicitly linking biopolitics and

⁶⁹ Lalu, P. 'Empire and Nation', in *Journal of Southern African Studies*, 41:3 (2015), 437-450.

⁷⁰ Lalu, 'Biopolitics and Empire', 447-449.

⁷¹ Clark, A. 'Humanitarianism, Human Rights, and Biopolitics in the British Empire, 1890-1902', in *Britain and the World*, 9.1 (2016), 96-115.

⁷² Clark, 'Humanitarianism, Human Rights, and Biopolitics in the British Empire, 1890-1902'. 96-98, 113-114.

⁷³ Clark, 'Humanitarianism, Human Rights, and Biopolitics in the British Empire, 1890-1902'. 115.

settler colonialism, Scott Lauria Morgensen's 'The Biopolitics of Settler Colonialism: Right Here, Right Now' (2011), makes for a comprehensive introduction to the topic and the motivation for drawing the analytical link.⁷⁴ For Morgensen, the settler colonies are both intimately linked to the concept of the state of exception, and show the importance of Agamben's spatial analysis of 'camps' and Mbembe's necropolitics as essential to understanding the operation of settler colonial power – particularly the seizure and occupation of native land, and genocidal acts of racial violence.⁷⁵ The spatial dimensions of Foucault's and Agamben's biopolitics in the context of settler colonialism has also been examined by Rene Dietrich.⁷⁶ Dietrich argues that a biopolitical account of settler colonialism allows us to understand the hierarchisation of different spaces within the settler colonial order, and the reaction against this imposition of arbitrary hierarchy in contemporary indigenous scholarship and literature. Both his work on spatial analysis and arguments relating to knowledge production as a tool of settler colonial power map onto biopolitical concerns in my 'common core' argument in Chapter One, although settler colonial locations and literary discussion are outside the remit of this investigation. Also noteworthy in respect of settler colonialism is a recent (2019) critique of Hannah Arendt's analysis of imperialism by David Myer Temin.⁷⁷ Temin's piece acknowledges the profound and ongoing influence of Arendt on colonial and postcolonial scholarship, but argues that her own work not only fails to fully account for the particular form and conditions of settler colonialism but even risks reproducing some of the ideological presuppositions that underpin settler colonial regimes,

⁷⁴ Morgensen, S. L. 'The Biopolitics of Settler Colonialism: Right Here, Right Now', in *Settler Colonial Studies*, 1:1 (2011), 52-76.

⁷⁵ Morgensen, 'The Biopolitics of Settler Colonialism...', 57-59.

⁷⁶ Dietrich, R. 'The Biopolitics of Settler Colonialism and Disruptive Relationality', in *Cultural Studies <-> Critical Methodologies*, Vol., 17 (1) (2017), 67-77.

⁷⁷ Temin, D. M. "'Nothing much had happened": Settler colonialism in Hannah Arendt', in *European Journal of Political Theory*, 0(0) (2019), 1-25. DOI: 10.1177/1474885119893077

such as *terra nullius* and Lockean notions of gaining property rights through working the land.⁷⁸ This is a useful discussion for any reader looking at depth into Arendtian political theory and the legacies/ongoing realities of settler colonialism.

Settler colonialism is, of course, outside of the purview of this project. What these three pieces have been intended to show is how the intersection of biopolitics and empire has led to a particularly fruitful and timely discussion of the topic. My current research topic, colonial India, will not directly contribute to these debates. I do, however, recognise their importance, and see many potential forward developments from this project that may contribute to this area of scholarship.

Conclusion

This brief review has sought to identify those works that have been most significant in opening up the analytical space within which this thesis takes place, the intersection of the political theory of biopolitics and the historical study of empire, particularly the British Empire. It has been designed to signpost readers wishing to explore this topic further, whilst also offering some orientation points for the thesis that follows.

To reflect my commitment to an equitable and interdisciplinary balance between political theory and history, I sought to trace lines of development in both disciplines that have led scholarship to the point at which our own investigation into Giorgio Agamben's biopolitics and the 'Criminal Tribes' of British India became possible. I have also shown some of the other fruitful avenues of inquiry, for example into biopolitics and contemporary history, and into the particular historical phenomenon of settler colonialism, into which the work of these

⁷⁸ Temin, "Nothing much had happened" ...' 11-15.

researchers continues to develop. I have not included every relevant scholar who has published in this field, nor could I hope to within the physical limits of a doctoral thesis, but these opening remarks have identified a series of works which, when taken together, can clearly be seen to have built the very precise theoretical and historical foundations upon which this current work will stand.

What remains to be done is to make my own contribution to the analytical field that these researchers have made possible. That work begins in my first chapter, 'Toward a 'common core' of biopolitics', to which we now turn.

Chapter One:

Toward a 'common core' of biopolitics

This chapter opens this project at its widest resolution by examining the 'common core' of characteristics that I argue can be drawn from Michel Foucault's original conception of the political theory of biopolitics and that remain common to those theories that built upon it, including Giorgio Agamben's.¹

This is the first necessary step in being able to develop a reading of what is particularly distinctive about Agamben's version of biopolitics, which is the object of my second chapter. With both a Foucault-derived general model of biopolitics and a specifically Agambenian model, it then becomes possible to examine my selected historical case study in relation to both, sequentially. Doing so will first demonstrate the utility of applying a biopolitical frame to the 'Criminal Tribes' system of British India, and, ultimately, show that Agamben's distinctive version of biopolitics offers a reading of greater analytical value than one derived solely from the 'common core' of biopolitical concerns established by Foucault.

Here, I offer my own reading of Foucault's biopolitics and will argue for four 'common core' characteristics of the biopolitical perspective drawn from his work. I argue that any Foucault-derived biopolitics will feature the following elements of analysis:

- 'Control of bodies' – that biopolitics asserts that modern forms of power target and act directly upon the individual, physical body, as one of its principal functions;

¹ Foucault was far from the first to use the term 'biopolitics', but can be said to have innovated its current distinctive use in contemporary political theory, which is the sense in which we use the term 'original' here. For some of the wider context of pre-Foucauldian biopolitics, see the first two chapters of Lemke, T. *Biopolitics: An advanced introduction* (New York; New York University Press, 2011); The third chapter of the same work discusses the originality of Foucault's adoption and use of the concept.

- ‘Population as object’ – that biopolitical theory holds that the shaping and management of the population as a whole (rather than as an aggregate of individuals) is one of the historical keys to biopolitical governance;
- ‘Politics as spatial administration’ – that the spatial component of the operation of state power is essential to understanding how biopolitics governs societies and people;
- Finally, ‘epistemic foundations’ – that all of the above is only made possible and sustained by the organisation and production of distinctive forms of knowledge, particularly scientific and medical knowledge, that came into existence from the seventeenth century.

I will show that each of these ‘common core’ principles can be drawn directly from the work of Foucault, using readings from across his body of works and the scholarly commentaries and further developments of Foucauldian theory that have succeeded him. As stated in the introduction to this thesis, my central concern here is with the diagnostic frame built and applied by Agamben in *Homo Sacer: Sovereign power and bare life* (the first book of the *Homo Sacer* series).² When looking for evidence of the ‘common core’ concerns in Agamben, therefore, I have chosen to focus my readings of Agamben upon that principal work.

I intend to demonstrate the appearance of all four points in both theorists’ work and, further, to develop a series of ‘historical indicators’ that I will argue can be used to establish the presence of one, or all, of these characteristics in a given historical case study. Again, one of the prime motivations of this project is to deepen the level of real historical engagement in Agambenian biopolitics, and to simultaneously demonstrate how the use of a more

² Agamben, G. *Homo Sacer: Sovereign power and bare life* (Stanford, CA.; Stanford University Press, 1998).

sophisticated theoretical model of Agamben's biopolitics will prove a useful tool for improving the historical study and understanding of European colonial modernity. The identification of 'historical indicators' serves the purpose of better historicising biopolitical theory by finding instances in which we can see its theoretical concepts reflected in real historical situations.

There is also a secondary (for us), but independently useful contribution towards the examination of biopolitics in the pages that follow. The 'common core' characteristics will assist with the reading of political theory, both pre- and post-Foucault, and the evaluation of whether or not individual thinkers and works are operating within a biopolitical perspective.

It is not my position that the characteristics listed here as common to Foucault-derived biopolitics are exclusive to that field (nor even to the field of political theory in general). However, the presence of all four characteristics, whether in a piece of academic work or the structures and conditions surrounding a real example from history, should clearly indicate to the reader the potential value of applying a biopolitical lens to its interpretation.

With the general, Foucauldian model of biopolitics established in this chapter, it will become possible to engage with the distinctive elements of the political theory of biopolitics in *Homo Sacer* and to situate it relative to the wider discipline in Chapter Two. I will then be in a position to apply both models to our selected historical case study, the 'Criminal Tribes' system of British India in Chapter Three, and to attempt the deep, historical engagement that we continue to argue is lacking in most applications of Agamben's biopolitics to the history of European colonial modernity at the culmination of this project in Chapter Four.

1.1 Control of bodies

The first of the four 'common core' elements of biopolitical theory concerns the status of the body as a principal object of political power. Drawing on Foucault and Agamben, I will argue

that this biopolitical power of, and over, bodies can be characterised in three ways. My principal argument is that any biopolitical theory derived from Foucault (and, for that matter, Agamben) contends that power targets and acts directly upon the biological, human body. I will support this basic position with two related arguments, both of which reinforce the centrality of 'control of bodies' to Foucauldian biopolitical thought. The first of these supporting arguments will be the distinctive Foucauldian idea that power can be said to *produce* the body as much as to act upon it – a line of thought that we will show he shares particularly with Agamben's view of the 'biopolitical body' being a product of sovereign power. I will then identify how both theorists offer accounts of the body as a site of both control and a potential site of contest and resistance. What this section will demonstrate is that the relationship between political power and the physical body is one of the theoretical cornerstones of the biopolitical theories of both Foucault and Agamben, and therefore constitutes an important area of analysis for any theorists building upon their work and any historians interested in applying it.

1.1.1 Power targets and acts upon bodies

This is one of the key insights of Foucault in the development of his analysis of the 'disciplines', beginning with *Discipline and Punish*.³ In tracing the unfortunate fate of the regicide Damiens, publicly tortured to death in Paris in 1757, Foucault demonstrates how the *ancien regime* approach of the traditional sovereign power to the body of an offender was one of punitive, and often spectacular, violence.⁴ Foucault asserts that the 'classical age' of early modern Europe 'discovered the body as object and target of power'.⁵ This takes the form of a

³ Foucault, M. *Discipline and Punish: The birth of the prison*. London; Penguin, 1991.

⁴ Foucault, *Discipline and Punish*, 3-6.

⁵ Foucault, *Discipline and Punish*, 136.

materialist view of the body as manipulable, as pliable material whose behaviours and capacities can be moulded by training and regimentation.⁶ In his account, the violence of penal punishment abates over the course of the seventeenth and eighteenth centuries in response to a new directive for the deployment of power – one that seeks to reform the offender, correct their behaviour, and rehabilitate the individual, rather than enact simple punishment for the crime.⁷ This new objective requires a different set of tools, and so the system of ‘corrective’ intervention upon incarcerated bodies, the objective being to render them ‘docile’ and productive, begins to take shape.

Disciplinary techniques originally developed in prisons and in the regimentation of the army barracks ultimately move out into other aspects of the social body.⁸ Foucault also describes the ‘political investment’ of the body over the course of the seventeenth and eighteenth centuries. He is clear that the framework within which these developments take place is principally a productive one:

This political investment of the body is bound up in accordance with complex reciprocal relations, with its economic use; it is largely as a force of production that the body is invested with relations of power and domination...the body becomes a useful force only if it is both a productive body and a subjected body.⁹

This new direction becomes systematic in the nineteenth century and begins to extend beyond the prison and into other institutional spaces, with the further developments of reformatories, barracks, schools, and factories – the famous ‘carceral archipelago’.¹⁰ These

⁶ *Ibid.*

⁷ Foucault, *Discipline and Punish*, 16-19.

⁸ Foucault, *Discipline and Punish*, 139.

⁹ Foucault, *Discipline and Punish*, 25-26. See also, Foucault, M. *Society Must Be Defended: Lectures at the College de France 1975-76* (tr. David Macey). London; Penguin, 2004. 241-242.

¹⁰ Foucault, *Discipline and Punish*, 296-298.

institutions were designed to regularise the movements of the bodies through strict timetabling of activities and to 'normalise' behaviours, bringing bodies into an organised conformity. Elsewhere, Foucault describes this process resulting in 'State control of the biological' by the nineteenth century.¹¹

Ultimately, 'discipline', that is, power targeting and acting upon the individual body, is only one half of Foucault's concept of biopolitics (the other being the political understanding and management of populations, to which we turn in the next section of this chapter). At the heart of Foucauldian discipline, lies a clear analysis that control of bodies (individual and plural, though not yet collective) is central to the operation of modern forms of power.

That power targets and acts upon the body is also a significant element of Agamben's theorisation in *Homo Sacer*. For Agamben, the relationship between sovereign power and the body that it acts upon goes all the way back to the foundation of western political history. In the opening pages of *Homo Sacer*, he argues that 'the production of a biopolitical body is the original activity of sovereign power.'¹² This biopolitical body is not only the material, human body whose biological processes (the *zoe* aspect of an individual's life, the 'natural'/animal element, schematically opposed to the 'political' life rendered as *bios*) are disavowed and formally excluded from the *Polis*.¹³ It is also the body which can either be killed, or rendered universally vulnerable to violence and death, through the operation of sovereign power (of which, the Roman punitive status of *homo sacer* is, for Agamben, a compellingly clear expression).¹⁴

¹¹ Foucault, *Society Must Be Defended*, 239-240.

¹² Agamben, *Homo Sacer*, 6.

¹³ Agamben, *Homo Sacer*, 7.

¹⁴ Agamben, *Homo Sacer*, 71-74, 112-115.

For Foucault, the 'political investment of the body', the politicisation that accompanies the body's transition from solely natural object to the target of political and disciplinary strategies, is a modern phenomenon. Agamben's position, as reflected in his 'original activity' phrase, sees the body as a political object from the beginning of western political history. In his brief discussion of the writings of de Sade, Agamben argues that the distinction of our age of biopolitical modernity, then, is not that of politicisation of the body, but rather of the *revelation* of the absolutely political and politicised status of the body that has been at the foundation of western politics from the *Polis* to the present day.¹⁵ In the writ of *Habeas Corpus*, Agamben's analysis identifies the biological body ('*corpus*') as the principal object of modern European politics:

Nothing allows one to measure the difference between ancient and medieval freedom and the freedom at the basis of modern democracy better than this formula. It is not the free man and his statutes and prerogatives, nor even simply *homo*, but rather *corpus* that is the new subject of politics.¹⁶

It is the body, for example, that Agamben sees at the heart of Hobbes' social contract (via its unique capacity to be killed), and as a focal point of the French revolution, insofar as the body becomes the 'vanishing ground' within which the natural (*qua*. biological) life of the individual is transformed into the *bios*-life of the citizen.¹⁷ Further, he argues that it is in the attempt to build our contemporary democratic societies on the liberation and vindication of *zoe*-life, and upon the primacy of the satisfaction of bodily needs, that contemporary western democracies have unwittingly fallen into their current state of mindless mass consumption and the quasi-totalitarian rule of sovereign power.¹⁸ Therefore, through *Homo Sacer*, it is possible to trace

¹⁵ Agamben, *Homo Sacer*, 134-135.

¹⁶ Agamben, *Homo Sacer*, 124.

¹⁷ Agamben, *Homo Sacer*, 125 (Hobbes), 128 (French revolution and citizenship).

¹⁸ Agamben, *Homo Sacer*, 9-10, 121-122.

Agamben's account of the continuing centrality of the body to the operation and structure of political power, but particularly in its modern (which is to say, post-seventeenth century) form.

1.1.2 Power and the 'production' of bodies

It is useful to note two further areas in which both theories overlap, both of which throw additional light on the centrality of the body, and control of bodies, to Foucauldian and Agambenian biopolitics. Firstly, Agamben's point that the *production* of the 'biopolitical body' is itself an activity of sovereign power. Where we see the overlap with Foucault is that the latter also argues that 'the body', as an object of knowledge and as the target of disciplinary power, is itself produced and 'appears' in its current form only in the modern age:

...the 'body' – the body of individuals and the body of populations – appears as the bearer of new variables, not merely as between the scarce and the numerous, the submissive and the restive, rich and poor, healthy and sick, strong and weak, but also as between the more and less utilisable, more or less amenable to profitable investment, those with greater or lesser prospects of survival, death and illness, and with more or less capacity to be usefully trained.¹⁹

Foucault also famously held that the idea of 'the individual' is an 'effect' of power, produced by the societal structures and relations that surround and prefigure it, rather than a pre-existing entity that power simply acts upon from some external point.²⁰ Both of these comments indicate the counter-intuitive but significant claim that the objects of disciplinary

¹⁹ Foucault, M. *Power/Knowledge: Selected interviews and other writings, 1972-1977* (Colin Gordon, ed.). New York; Pantheon Books, 1980. 172.

²⁰ See, for example, *Society Must Be Defended*, 29-30.

power, the ideas of the body and the individual that are the principal targets of this power, are created by that power in a reciprocal and mutually constituting relationship.²¹

1.1.3 Bodies as sites of political contest and resistance

The second overlap that demonstrates the centrality of ‘control of bodies’ is that, for both theorists, the body, by its political and politicised nature, becomes a potential site of contest and resistance to the very power that has constituted it and holds it under its control. Foucault’s account of power involves the immanent generation of resistance.²² Thomas Lemke’s summary of Foucault argues that, in the same way that he holds power can ‘produce’ or ‘invest’ bodies as objects of political control, this very application of power makes the body (as the central location for the interplay of power and subjection) the site where resistance to biopower can be generated.²³ One recent (2019) example of work in this field is Siisiäinen’s *Foucault, Biopolitics and Resistance*, which explores the centrality of the body to a Foucauldian concept of resistance in her chapter ‘The Politics of *Aphrodisia* and the gay mode of life’.²⁴

For Agamben, the body is also a location for both the exercise of power and the only possible site from which liberation from sovereign power may ultimately be achieved. Sovereign power holds the lives of its subjects in its grip by first introducing the caesurae between

²¹ It is worth noting that Judith Butler strongly criticised Foucault’s position that power can ‘produce’ bodies in her ‘Foucault and the Paradox of Bodily Inscriptions’. *The Journal of Philosophy*, Vol. 86, No. 11 (Nov., 1989). 601-607. A counterpoint has been provided by Dudrick, who argues that Butler is reductive/overly literal in arguing that Foucault could have meant the production of the physical body itself as opposed to the idea of the body. (Dudrick, T. ‘Foucault, Butler and the body’, in *European Journal of Philosophy* 13:2 ISSN 0966-8373 (2005). 226–246.) This chimes with Punday’s work on ‘Foucault’s Body Tropes’, in *New Literary History*, Vol. 31, No. 3 (Summer, 2000). 509-528. On the balance, I would concur that Butler’s characterisation of Foucault’s position in this article suffers from exaggeration in that respect.

²² Foucault, M. *The History of Sexuality, vol. 1: The will to knowledge*. London; Penguin, 1998. 95-96.

²³ Lemke, T. *Biopolitics: An advanced introduction*. New York; New York University Press, 2011. 50-51.

²⁴ Siisiäinen, L. *Foucault, Biopolitics and Resistance*. London; Routledge, 2019. In particular, see 35-42.

natural (*zoe*), political (*bios*), and 'bare' life, immediately politicising the biological body as the site upon which the sovereign decisions on the borders between the natural/political, and membership/exclusion of the political order, are constantly made.²⁵ Agamben seeks to evade sovereign power, rather than resist outright. This is due to the fact that, for Agamben, the lessons of the twentieth century revolutions are that the attempt to fight against sovereign power ultimately ends up reproducing the same power.²⁶ Agamben's strategy, then, is one of evasion, an attempt to restructure our lives in such a way that the divisions between these different aspects of human life, and the fractures between them that traverse each and every individual body, can no longer be exploited by sovereign power, thus rendering it inoperable in the face of a new way of being.²⁷

Of course, this means that Agamben's ontological approach cannot easily be described as 'resistance' *per se*. However, the term is consistent with his objective in *Homo Sacer* of finding a way to short-circuit the operation of the system of power Agamben seeks to overcome. The precise means (particularly in the book *Homo Sacer*²⁸) risks verging on philosophical idealism, as opposed to tangible political practice.²⁹ For this project, what is important is *where* this overcoming must take place, which is within each and every individual body – the body is the

²⁵ Agamben, *Homo Sacer*, 139-140, 171.

²⁶ Agamben, *Homo Sacer*, 12, 121.

²⁷ Agamben, *Homo Sacer*, 47, 179-180, 187-188.

²⁸ This aspect of Agamben's thinking develops further in the later books of the *Homo Sacer* series. Sergei Prozorov provides a comprehensive overview in 'Living *a la Mode*: Form-of-Life and democratic biopolitics in Giorgio Agamben's *The Use of Bodies*', in *Philosophy and Social Criticism*, Vol. 43(2), 2017. 144-163. We are limiting our concern here to Agamben's diagnostic frame in *Homo Sacer* itself, making a discussion of the prognostic/prescriptive elements (particularly of his later works) less germane to this inquiry.

²⁹ Prominent examples of this critique include Paul Passavant's 'The Contradictory State of Giorgio Agamben', in *Political Theory*, Vol. 35, No. 2 (April 2007). 147-174 (see, in particular, 159); and the pluralist critique of Agamben's 'historical impasse' by William Connolly, 'The Complexity of Sovereignty', in Edkins, J., Pin-Fat, V. and Shapiro, M. (eds.), *Sacred Lives: Power in Global Politics*. New York; Routledge, 2004. 26-27.

object held under the control of sovereign power, and it is the only vehicle by which the escape from the sovereign's biopolitical domination of life may yet be realised.

These two areas of common ground, that bodies are produced by the power structures that control them, and that the body thereby becomes a principal site of political contest and potential resistance, reinforce the extent to which both Foucault and Agamben build their biopolitics around bodies. The politicisation of bodies, and the *control of bodies*, form a primary foundation stone for both variations of biopolitical theory.

1.1.4 Historical indicators

To establish whether this concept of 'control of bodies' is present in a given case study, I offer two 'historical indicators' that will allow theorists to make that case. Firstly, that the governing power in any particular historical case explicitly identifies the discipline, coercion, or even enhancement of the individual bodies under its control as a key objective or measure of progress. Secondly, that we can draw upon Foucault and Agamben's shared theory of the body as a site of contest and resistance to look for examples of physical bodies being used to disrupt or otherwise resist the application of administrative power. I will examine our own case study of the 'Criminal Tribes' of British India for the presence of these indicators in Chapter Four. On a wider note, evidence of these indicators in any given historical instance can be taken as evidence that a biopolitical analysis can offer additional analytical value.

1.2 Population as object

The second common element of Foucault's and Agamben's biopolitics is 'population as object', which is to say that the idea of the 'population' as both an object and target for the operation of political power is central to any Foucault-derived biopolitics. I will outline how

Foucault theorises the emergence of 'population' as a target of political intervention, made possible by changes in scientific perspective, and advances in statistics and demography, as the moment that European societies arrive at a properly biopolitical administration. I will also identify the fundamental materialism of Foucault's perspective on population, showing how his account of biopolitical population management centres almost exclusively upon economic utility and questions of production.

With regard to Agamben, I will show that his idea of 'the People' is distinct from the Foucauldian notion of 'population', but that the latter remains implicit in *Homo Sacer's* analysis as the presupposition for Agamben's wider discussion. Finally, having argued for 'population as object' to be a central concern for both theorists, I will identify three historical indicators that will help render this approach historically-visible for those seeking to apply a biopolitical analysis to a given historical event. I will argue that the combination of 'population management' techniques based on statistical data, the sub-division and categorisation (with a view to inclusion/exclusion within the political community), and a concern with the economic capacities and potential of a population, will be sufficient to argue that the concept of 'population as object' can be applied to the given instance.

1.2.1 'Discovery' and management of populations (Foucault)

In the previous section ('control of bodies'), I discussed Foucault's account of the development of disciplinary regimes, which aimed to control, regiment, and render docile individual bodies. These techniques only become part of his wider phenomenon of biopolitics when they are joined to a set of technologies that appeared later, around the late

seventeenth century, which sought to regulate entire populations.³⁰ Foucauldian biopolitics is therefore the combination of individual 'discipline' with population-level management of the collective body of society.³¹

One of the reasons for the later development of population-level practices is that the concept of population itself makes a transition from an idea of population as a simple aggregate of individuals to the recognition that population itself could be seen as an object with its own distinctive characteristics, independent of any (and even all) of the individuals that compose it:

What does this new technology of power, this biopolitics, this biopower that is beginning to establish itself involve? [...] a set of processes such as the ratio of births to deaths, the rate of reproduction, the fertility of the population, and so on. It is these processes – the birth rate, the mortality rate, longevity and so on [...] which, in the second half of the eighteenth century, become biopolitics' first objects of knowledge and the targets it seeks to control.³²

The critical change in the eighteenth century in Europe which allowed 'population' as a coherent and manipulable object of government was an epistemic one. Foucault traces the 'discovery' of population to developments in the sciences, in the disciplines of mathematics and statistics, as well as to the impact of Europe's rapid population growth upon the development of demography.³³ Once population is discernible as an object, it is capable of

³⁰ Foucault, *Society Must Be Defended*, 245. For a comprehensive and critical introduction to the development of the concept of population in Foucault's work, see Curtis, B. 'Foucault on governmentality and population: The impossible discovery', in *The Canadian Journal of Sociology*, Vol. 27, No. 4 (Autumn 2002). 505-533. It is also worth noting that Foucault's chronology has recently been challenged by Maurizio Meloni, who argues for a similar concept of 'population' and regulation at work in Roman antiquity. Meloni, M. 'Porous Bodies: Environmental Biopower and the Politics of Life in Ancient Rome', in *Theory, Culture & Society*, 0(0) 1–25 (2020), DOI: 10.1177/0263276420923727. Accessed 25/07/2020.

³¹ Mills, C. *Biopolitics*. Abingdon; Routledge, 2018. 15. Lemke, *Biopolitics: An Advanced Introduction*. 36-37.

³² Foucault, *Society Must Be Defended*, 243.

³³ Foucault, M. *Security, Territory, Population: Lectures at the Collège de France 1977-1978*. Basingstoke; Palgrave MacMillan, 2009. 104. Also, *History of Sexuality: Vol. 1.*, 25; and, 'The Politics of Health in the Eighteenth Century', in *Power/Knowledge*, 171-172.

being intervened upon and actively governed with a view to shaping these population-level characteristics, with institutions such as the family suborned into becoming 'relays' for the transmission of population management practices to shape the lives of the people.³⁴

One thing that makes Foucault's biopolitics distinctive is that its account of both the aims and the tools of biopolitics are primarily materialist. For Foucault, this idea that the population as an object to be managed was historically seen through the prism of economic optimisation, and was tied specifically to the needs of the developing capitalist economy.³⁵ For example, that concern for the rates of endemic disease (one of those characteristics which a population can have that no individual can be said to have) related directly to the question of economic utility since they 'sapped the population's strength, shortened the working week, wasted energy, and cost money'.³⁶ Population, once visible to government in this way, was therefore to be managed in a way that increases its economic utility.³⁷ This will become an important point of distinction between Foucault's and Agamben's biopolitics, which will be further discussed when I argue for 'non-material shaping' as a key component of Agambenian biopolitics in the next chapter.³⁸

The result of this 'discovery' of population in Foucault's biopolitics is a new rationale for state power, as population management and the care of the collective life of the population is assumed as one of the principal tasks of government.³⁹ Ultimately, the assumption of the shaping and care of the life of the population by the state also leads to the development of a

³⁴ Foucault, *Society Must Be Defended*, 246; and, *Security, Territory, Population*, 105-106. See also, Legg, S. 'Foucault's Population Geographies: Classifications, Biopolitics and Governmental Spaces', in *Population, Space, Place*, 11 (2005), 137-156. 141.

³⁵ Elden, S. *Foucault: The Birth of Power*. Cambridge; Polity Press, 2016. 178-179. Bruce, 'Foucault on governmentality...', 512.

³⁶ Foucault *Society Must Be Defended*, 244.

³⁷ Foucault, *Power/Knowledge*, 172.

³⁸ See section 2.5.2 in particular, pp.129-130.

³⁹ Foucault, *Security, Territory, Population*, 103-104. Bruce, 'Foucault on governmentality...', 516.

new and specific form of 'racism'.⁴⁰ What Foucault means by racism here is that the state, now able to identify and manage its own population and also able to divide and sub-divide the population into groups based on their legitimacy or belonging, can now act to identify groups (both within and without) whose elimination is necessary to effect the constitution/identity, and continuing health, of the population itself.⁴¹

What we can see in Foucault's biopolitics, therefore, is the centrality of the concept of 'population as object'. Firstly, insofar as it is only with the discovery of population as a cohesive object capable of shaping, as opposed to a mere aggregate of individual persons, and through the development of regulatory techniques aiming to do so, that Foucauldian biopolitics comes into existence in the late eighteenth century. It is the combination of individual-level discipline (rendered above, as 'control of bodies') and population-level regulation that produces the phenomena described by Foucault as biopolitics. Secondly, this idea of population, and the regulatory practices developed as a result of this new idea of population, were only made possible by the epistemic shift in modern Europe to scientific, statistical, and demographic perspectives.⁴²

According to Foucault's theory of biopolitics, the population is to be managed according to its material-economic optimisation, and this population management becomes a new and ultimately hegemonic rationale for state action into the nineteenth and twentieth centuries. This notion of 'population as object' is therefore central to Foucault's historical account of

⁴⁰ Foucault *Society Must Be Defended*, 254.

⁴¹ Foucault, *Society Must Be Defended*, 255-256.

⁴² This will be discussed further in the section on the 'Epistemic Foundations' of biopolitics, see section 1.4 'epistemic foundations', pp. 67-86.

biopolitics from its beginning, and remains at the centre of its analytical account of the motivations and operation of modern state power.

1.2.2 Population and 'form of life' (Agamben)

'Population as object' does not feature prominently in *Homo Sacer's* analysis. This is bound up with the distinction between material and non-material shaping that marks a key point of distinction between the biopolitics of Foucault and Agamben (and which will be discussed at more length in the next chapter). Agamben does, however, acknowledge the centrality of this notion of population to Foucault's biopolitics in the opening pages of *Homo Sacer*.⁴³ Agamben identifies the historical passage to a 'state of population' as the key moment of transformation in Foucault's analysis, and further reinforces the link to economic production by remarking that 'the development and triumph of capitalism would not have been possible' without the combination of disciplinary and regulatory techniques that constitute Foucauldian biopolitics.⁴⁴

The distinction between this notion and Agamben's is that the latter's main concern is not necessarily with the constitution and management of 'populations' as-such, but rather with the creation and maintenance of the political 'form of life' known as *bios*, and the related concept of 'Peoples'. What is important for us about Agamben's concept of *bios* is that it requires multiplicity. Unlike the animal aspect of *zoe*-life, *bios* is a form of life that can only be realised in community with one's peers.⁴⁵ The *bios* is therefore always a life that is derived from community, which requires a physical multiplicity of individuals to become a reality.

⁴³ Agamben, *Homo Sacer*, 3.

⁴⁴ *Ibid.*

⁴⁵ Agamben, *Homo Sacer*, 1-3. In particular, note Agamben's comment that the term *zoe* (as opposed to *bios*) '...in Greek, significantly enough, lacks a plural'. 1.

Further evidence for this in *Homo Sacer* can be found in Agamben's repeated insistence that the 'highest political task' of modern states is the ongoing task of creating the 'biopolitical body' of the nation – again, this is not an individual body, and not a figurative body along the lines of the famous frontispiece to Hobbes' *Leviathan*, Agamben is talking about the physical creation of the German body, the French body, and so on, through the very real acts of formation, assimilation, and elimination that constitute biopolitics.⁴⁶ In this way, population – at the very least, in its traditional, aggregate sense – is the precondition (necessary, but not sufficient) for *bios*-life. Further, Agamben's *bios* itself can only be properly conceived as a 'form of life' specific to a chosen, political community (anyone who is not a member of that community will not share their *bios*; other political communities in different places will have a different *bios*), making the community at the heart of Agamben's concept of *bios* a properly Foucauldian 'population'.

Of course, the individuals who compose and thus share in the *bios*-life of a society are rarely the total sum of individuals in a given state or territory. It is this consideration that leads from the idea of *bios* to Agamben's concept of 'People'. In *Homo Sacer*, Agamben formulates a distinction (derived from the etymology of European words for 'people') between two different groups within a territory – one described as the People (capitalised), and the second as the 'people'.⁴⁷ The former group, as the capitalisation implies, form a privileged subset of the total number of individuals. They are the referent object of sovereign power, they are the *bios*-life that comprises the political community.⁴⁸ They are the People of "We, the People" in

⁴⁶ Agamben, *Homo Sacer*, 130, 148, 171, 173-174.

⁴⁷ Agamben, *Homo Sacer*, 176.

⁴⁸ Agamben, *Homo Sacer*, 176-177. Willem Schinkel locates citizenship as the boundary between biopolitics and 'zoepolitics' in his discussion of Agamben's development of Foucault's biopolitics, with the *bios*-life of the citizens substituting for Foucault's concept of population in Agamben's more juridical exposition. See Schinkel, W. 'From Zoepolitics to Biopolitics: Citizenship and the Construction of 'Society'', in, *European Journal of Social Theory* 13(2) (2010). 155–172. 161-162, 165.

the United States constitution, and they are the small group of Athenian men who composed the *Polis*. Their counterpart, the 'people' are the marginalised and excluded masses who are not a formal part of the political system, the refugees, the disenfranchised, the poor.⁴⁹

For Agamben, this distinction is doubly important – firstly because it is the tension between the People and the people, who belongs where and how the two groups are defined, that is the engine that drives western politics.⁵⁰ Secondly, he argues that sovereign power seeks to continuously build and maintain this 'People' via the identification and elimination of those who do not belong.⁵¹ Here, whilst taking a slightly different route (in terms of 'People' as opposed to 'population'), Agamben arrives at Foucault's idea of the distinctive form and function of the 'racism' that inflects the operation of biopower.

To discuss Agamben's position on the constitution of Peoples here would require too much of the material that we intend to discuss in Chapter Two. What is important to bear in mind at this point is that the Foucauldian population remains the physical material out of which Agamben's 'People' must be constructed. 'Population' in that sense is the plane upon which, by necessity, the tensions between Agamben's 'People' and 'people' are enacted, as are the biopolitical operations of sovereign power to define the former and eliminate the latter. Thus, while there is little direct discussion of 'population as object' within *Homo Sacer*, it forms a fundamental presupposition upon which Agamben's discussions are built.

⁴⁹ *Ibid.*

⁵⁰ Agamben, *Homo Sacer*, 177-178.

⁵¹ Agamben, *Homo Sacer*, 179.

1.2.3 Historical indicators

This leaves us with the question of the historical indicators that we would seek to identify in order to argue that the biopolitical criterion of 'population as object' is present in a given historical instance. There are three ways in which 'population as object' can be seen in this way. Firstly, evidence of the application of 'population management' perspectives to questions of government. This would include the use of demographic and statistical data to render the population visible to the state, such as census data, thus making the population as object amenable to intervention. Secondly, similar data being used to sub-divide and classify the population into smaller groups, with the high likelihood that such subdivisions become the basis for drawing a boundary around a selected 'legitimate' political community (Agamben's 'People') and those who do not, or cannot belong ('people'). Finally, concern with the collective 'form of life' of the population. For the purposes of this, Foucault-derived, model of biopolitics, this would likely be framed in material terms, such as physical health, economic utility, and production/productive capacities.

In this section, I have introduced the concept of 'population as object', as the second of four fundamental elements of Foucauldian biopolitics, and also demonstrated that Agamben's own adaptation and development of Foucault in *Homo Sacer* supports and builds upon this idea. I showed that, for Foucault, it is the combination of discipline and the regulation of populations that ultimately becomes biopolitics proper, and that the latter was only possible after the object of 'population' was rendered visible by a changed epistemic frame in modern Europe, and the innovations in science, statistics, and demography that accompanied it. I also argued that, for Foucault, biopolitics is primarily a material perspective, with the techniques

of discipline and regulation focused upon enhancing the economic utility of the population as a whole in the context of the emerging capitalist economy of modern Europe.

Whilst Agamben's account of the tensions between 'People' and 'people' cannot be reduced to the material of 'population', Agamben's own ideas proceed fully and explicitly from Foucault's identification of the 'state of population' as the distinctive mode of biopolitical government. Agamben's concern for how a 'People' is constituted from the object that is the wider population, and the compelling structural similarity of his account of exclusionary biopolitics to Foucault's description of biopolitical 'racism' indicates that 'population as object' is clearly presupposed by Agamben as one of the starting points for his use of Foucault in *Homo Sacer*. In both theorists, therefore, this idea of a 'population' as an object to be created, shaped, and managed by the ruling power is as central to their definition of biopolitics as the 'control of bodies'.

I concluded this section by identifying some material historical indicators that would need to be present to argue that the concept of 'population as object' is being practiced in a given case study. In our own study of colonial India, I will assess the presence of the three characteristics of 'population as object' that I have argued for. To recap, they are 'population management' techniques based on statistical and demographic data, the sub-division and classification of groups within populations (making distinctions between 'People' and 'people'), and a material concern for the economic aspects of the life of the population.

1.3 Politics as spatial administration

The third of the four key characteristics common to Foucault's and Agamben's accounts of biopolitics is the idea of 'politics as spatial administration'. I will show that the spatial dimension of the operation of power is a key point in both theorists' work. With Foucault, I

will reflect on his prominence as a 'spatial' theorist, before discussing one of his earliest and most famous examples of spatial analysis, the differential treatment of leprosy and plague. I will also show how Foucault uses the idea of spatial administration in particular in both his concepts of discipline and biopolitics. For Agamben, in addition to identifying his reception as a theorist with a distinctive spatial aspect, I will explore how *Homo Sacer's* analysis centres upon notions of localisation and territorialisation of power that can only be understood in relation to the administration of spaces. I will also show that the 'camp' is, for Agamben, fundamentally the spatialisation of the state of exception, both in its appearance as the concentration camp of the twentieth century, and in the myriad other forms that Agamben argues the camp continues to appear.

As with the previous section, I will show that 'politics as spatial administration' is a necessary hallmark of both theorists' concepts of biopolitics, and must be accounted for in any attempt to apply their ideas to existing historical examples. This will bring us to the conclusion of the section, in which I will identify four historical indicators that will satisfactorily answer the question of whether a biopolitical 'politics as spatial administration' is present in a given case study. I will argue that division and administration of territorially demarcated spaces by the state and within its borders; the presence of spatially-defined and demarcated institutions; the movement of people (individuals and groups) between differentially-administered internal spaces; and, the presence of a juridical distinction in the legal statuses of both the spaces and the people moved between them, will all demonstrate that the 'politics as spatial administration;' theorised by Foucault and Agamben as an essential element of biopolitical governance is indeed present in the chosen example.

1.3.1 Spatial analyses of discipline and biopolitics (Foucault)

That space is one of the key elements of Foucault's thought, and one which readily lends itself to his application across disciplines, has been recognised and commented upon for at least three decades.⁵² *The Birth of the Clinic* opens with a discussion of how illness and disease came to be conceived of spatially – from their location within the body to the 'tertiary' spaces within society given over to their treatment, such as hospitals.⁵³ In his *Foucault: The birth of power*, Stuart Elden traces Foucault's interest in how new spatial questions, for example hospital building, town planning, and so on, were originally spurred on by 'the purpose of regulating health concerns'.⁵⁴ Space remains a prominent interest for Foucault through to his later lectures and publications. This can be seen in the *Security, Territory, Population* lecture series, with his comments on how security and police functions are developed to safeguard, after the health of the population, the 'space of circulation' of goods and activities within a territory.⁵⁵ In the posthumously-published article *Of Other Spaces*, the spatial dimensions of Foucault's thought remain prominent in his account of the changing nature of spatial perception from the medieval to the modern mindset, and his concept of 'heterotopias' as places which work in a similar regulatory way to idealised utopias but are physically grounded as existent locations.⁵⁶ These examples are mentioned briefly as an indication of the ongoing relationship between Foucault's inquiries and notions of space from early to late in his

⁵² I am thinking here of Philo's influential paper that sought to introduce Foucault to the discipline of geography. Philo, C. 'Foucault's Geography', in *Environment and Planning D: Society and Space*, Vol. 10 (1992), 137-161. Further examples recognising the significance of the spatial component to Foucault's thought are Elden, *Mapping the Present: Heidegger, Foucault and the project of a spatial history* (London; Continuum, 2001), and Johnson, 'Foucault's Spatial Combat', in *Environment and Planning D: Society and Space*, Vol. 26 (2008), 611-626.

⁵³ Foucault, M. *The Birth of the Clinic: An archaeology of medical perception* (Abingdon; Routledge Classics, 2003). 17-22.

⁵⁴ Foucault, 'The Politics of Health in the Eighteenth Century', in *Power/Knowledge*, 175-176. See also Elden, 'Foucault: The birth of power', 175.

⁵⁵ Foucault, *Security, Territory, Population*, 325-326.

⁵⁶ Foucault, M., and Miskowiec, J. 'Of Other Spaces', in *Diacritics*, Vol. 16, No. 1 (Spring 1986), 22-27.

publishing career. This thesis is, of course, concerned with biopolitics, and therefore more interested in the intersections of spatial analysis with the concepts of discipline, biopower, and biopolitics, to which I now turn.

We begin with a precursor step, which is to pick up on Foucault's famous example of the distinction between leprosy and plague as representative of a changing approach to government between the medieval and modern ages.⁵⁷ In the treatment of lepers in the Middle Ages, Foucault sees an example of an act of exclusion which forces the individual out of the city, to live (and, presumably, die) in the 'undifferentiated community' of afflicted bodies exiled in the colony.⁵⁸ By contrast, plague regulations exhibit all the hallmarks of the transition to a disciplinary society – they segment and partition areas of the affected towns, imposing a grid pattern and hierarchy of neighbourhood and street-level administrations; they subject homes and individuals to movement controls, regular inspections and specifically-timetabled interventions like the perfuming of houses and delivery of food; further, unlike the undifferentiated community of leprosy sufferers, each individual in the plague town is named, identified and registered with the authorities.⁵⁹ For Foucault, the difference is a clear indication of the different motivations of the political order between the middle ages and the disciplinary societies of early modernity:

The exile of the leper and the arrest of the plague do not bring with them the same political dream. [...] Two ways of exercising power over men, of controlling their relations, of separating out their dangerous mixtures. The plague-stricken town, traversed throughout with hierarchy, surveillance, observation,

⁵⁷ The leprosy/plague example was being used at least as far back as Foucault's doctoral dissertation, later published (in revised form) as *Madness and Civilisation*. Elden, *Mapping the Present*, 121-122, 145-146.

⁵⁸ Foucault, *Security, Territory, Population*, 9-11.

⁵⁹ Foucault, *Discipline and Punish*, 195-200.

writing; the town immobilized by the functioning of an extensive power that bears in a distinct way over all individual bodies – this is the utopia of the perfectly governed city.⁶⁰

Foucault notes that both modalities of control persist into the modern age, with new ‘lepers’ appearing in the form of ‘beggars, vagabonds, madmen and the disorderly’, all subject to a similar exile – although this time into spaces within the boundaries of the town, hospitals, asylums, workhouses, and so on.⁶¹ It is when the ‘exile’ of those new forms of leper into these institutions is mixed with the application of disciplinary techniques, such as surveillance and regimentation of time and activities whilst incarcerated, that Foucault arrives at Bentham’s Panopticon as the signature example of disciplinary power.⁶²

The widespread application of disciplinary techniques to the population, as represented by the institution of the Panopticon, is described by Foucault as ‘a technological invention in the order of power, comparable with the steam engine in the order of production’.⁶³ The spatial component of Foucault’s analysis of this new apparatus of power is fundamental. In *Security, Territory, Population*, he remarks that discipline requires a blank space within which it is able to impose the controls and regulations that enable the production of docile bodies.⁶⁴ This is the key to understanding Foucault’s accounts of prisons, schools, factories, barracks, workshops, and similar institutions as the cornerstones of disciplinary society – they are, first and foremost, controlled *spaces*.⁶⁵ In *Discipline and Punish*, Foucault elaborates on the spatial mechanics of disciplinary power, including the distribution of individuals within space (whether confined in workhouses, working in factories, or attending secondary schools),

⁶⁰ Foucault, *Discipline and Punish*, 198.

⁶¹ Foucault, *Discipline and Punish*, 199.

⁶² Foucault, *Discipline and Punish*, 200.

⁶³ Foucault, M. ‘Questions on Geography’, in *Power/Knowledge*, 71.

⁶⁴ Foucault, *Security, Territory, Population*, 12-13, 44-45.

⁶⁵ Elden, *Mapping the Present*, 139-141.

which can only proceed via the 'enclosure' of space and the closing of its exterior borders.⁶⁶ In addition to external enclosure, discipline relies on the internal 'partition' of space, in which 'each individual has his own place; and each place its individual'.⁶⁷ This management of internal space limits the risk of uncontrolled assembly, unregulated movement, and the unknown location of individuals. Discipline holds individuals within their assigned spaces, making it all the easier for them to not only be controlled in their activities, but *known* – the individual, held in that space, becomes an object of measurement and assessment as much as a unit of labour or a controlled/docile body. Foucault argues that, in this way, discipline does not simply control a physical space, but 'organizes an analytical space'.⁶⁸ This analytical space is one in which further subdivisions and classifications of those within can be used to create hierarchies, measure aptitudes and outputs, and determine the individual's place within the organisational structures of the institution.⁶⁹ Thus, Foucault's account of discipline is riven with spatial relationships – external, internal, and analytical – to the extent that it forms a famously 'spatial' theory of power.

Discipline is, however, only a precursor and (substantial) component of the wider concept of biopolitics. What discipline is able to do is to provide the knowledge of the population that is a prerequisite of biopolitics proper.⁷⁰ The spatial organisation that is the hallmark of discipline also provides the material foundation for the population-level processes of Foucauldian biopolitics, we see this in Foucault's example of how the segregation and organisation of spaces in nineteenth century town planning (grid patterns, street layout, anticipated/facilitated movement, localisation and specification of family dwellings) all made

⁶⁶ Foucault, *Discipline and Punish*, 141.

⁶⁷ Foucault, *Discipline and Punish*, 143.

⁶⁸ *Ibid.*

⁶⁹ Marquez, X. 'Spaces of Appearance and Spaces of Surveillance', in *Polity*, Vol. 44, No. 1 (Jan 2012), 6-31. 23.

⁷⁰ Elden, *Mapping the Present*, 146-147.

possible the wider biopolitical regulations that were superimposed onto the population of the planned space.⁷¹ The biopolitical concerns, ranging from financial saving patterns relating to the purchase or rent of housing, health insurance and pension systems, provision of education, and the introduction of social norms relating to sex, reproduction, childcare, family life, etc. – these are all, for Foucault, built upon the foundations of spatial administration, whether in the form of direct, state-driven regulations, or in the fact of social pressures towards conformity to ‘the norm’, introduced by the spatial proximity and surveillance of living within these spaces with others.⁷² Foucault’s biopolitics is ultimately made possible by the disciplinary control of space (or spaces), and the regulatory control of the ‘population’ that exists within this space. This is the sense in which Foucault’s biopolitics is therefore typified by the approach that I have rendered as ‘politics as spatial administration’.

1.3.2 Localisation of the ‘exception’ and spatial reading of camps (Agamben)

The relationship of Agamben’s biopolitics to the kind of spatial analysis that so characterises Foucauldian discipline has been principally discussed by geographer Claudio Minca.⁷³ In ‘Agamben’s Geographies of Modernity’, Minca offers a reading of Agamben in which the two key Agambenian concepts, the ‘exception’ and the ‘ban’, are both conceived of as primarily spatial concepts.⁷⁴ The spatial aspect of Agamben’s concept of exception is supported by Hopkins, who reflects on the significance of the ‘zone of indistinction’ that Agamben argues typifies the boundary between internal and external spaces under the rule of sovereign

⁷¹ Foucault, *Society Must Be Defended*, 249-250.

⁷² *Ibid.*

⁷³ Minca has published on Agamben and his application to concentration camps since at least the early 2000s. Most recently (June 2020), Martin, D., Minca, C. and Katz, I. ‘Rethinking the Camp: On spatial technologies of power and resistance’, in *Progress in Human Geography*, Vol. 44 (4) (2020), 743-768. More generally on Agamben’s spatial theory of power, see Minca, C. ‘Agamben’s Geographies of Modernity’, in *Political Geography*, 26 (2007), 78-97; and, ‘Giorgio Agamben and the New Biopolitical Nomos’, in *Geografiska Annaler. Series B, Human Geography*, Vol.88 (4) (Jan 2006), 387-403.

⁷⁴ Minca, ‘Agamben’s Geographies of Modernity’, 90-94.

power.⁷⁵ In practice, this is reflected (with a telling similarity to Foucault's account of the internal 'exiles' of vagabonds, madmen, and so on, during the nineteenth century), in the 'inclusive exclusion' which holds people inside concentration camps but outside of the established legal order in Agamben's telling of twentieth century European history. Of course, Agamben also gained prominence at the turn of the twenty-first century with a spatial theory of exception that sought to apply a similar analysis to the United States military prison complex at Guantanamo Bay.⁷⁶ Finally, Nick Vaughan-Williams argues that one of Agamben's fundamental aims has been to reveal 'the *nomos* – or spatial-juridical orientation – of the West'. Vaughan-Williams goes on to apply an Agambenian spatial framework to what he calls the 'bio-political border', looking to develop a new approach to understanding the multiplying complexities of both the situations and contemporary practices at international borders.⁷⁷ Whilst the examples here show some of the range of research that supports the centrality of spatial analysis to Agamben's biopolitics, we will focus principally on the related readings of the 'camp' and the 'exception' that form a critical component to his analysis in *Homo Sacer*. For Agamben, the banishment of 'bare life' from the political order of the City constitutes the 'originary spatialization' of sovereign power.⁷⁸ This act of exclusion (which, we recall, is an 'inclusive exclusion' since the subject is exiled from the protections of the legal order without

⁷⁵ Hopkins, B. 'Beyond the Agamben Paradigm', in *EPD: Society and Space*, Vol. 37(6) (2019), 953–970. See 963-966 in particular.

⁷⁶ Agamben, G. *State of Exception* (Chicago; University of Chicago Press, 2005). 3-4. See also, Agamben's comments in interview with Ulrich Raulff ('The detainees of Guantanamo do not have the status of Prisoners of War, they have absolutely no legal status. They are subject now only to raw power; they have no legal existence'), cited in Aradau, C. 'Law transformed: Guantánamo and the 'other' exception', in *Third World Quarterly*, Vol. 28, No. 3 (2007), 489 – 501. Agamben's analysis of Guantanamo is further developed by Minca, 'The Return of the Camp', in *Progress in Human Geography* 29, 4 (2005), 405-412; and more by Gregory in 'The black flag: guantánamo bay and the space of exception', in *Geografiska Annaler: Series B, Human Geography*, 88:4 (2006), 405-427.

⁷⁷ Vaughan-Williams, N. 'The generalised bio-political border: Reconceptualising the limits of sovereign power', in *Review of International Studies*, Vol. 35, No.4 (October 2009), 729-749. 736-737.

⁷⁸ Agamben, *Homo Sacer*, 111.

being expelled beyond the physical, external boundaries of sovereign power) becomes the condition of possibility for all other acts of territorialisation and localisation of power, a constituting moment for a power that seeks to govern and rule spatially.⁷⁹ Agamben argues that it is through the 'exception', the suspension of the application of the legal order (which is the mechanism by which bare life is banished from the *Polis*), that any juridical order or concept of territory can be established:

...the sovereign decision on the exception is the originary juridico-political structure on the basis of which what is included in the juridical order and what is excluded acquire their meaning. In its archetypal form, the state of exception is therefore the principle of every juridical localization, since only the state of exception opens the space in which the determination of a certain juridical order and a particular territory becomes possible.⁸⁰

For Richard Ek, the abandonment of bare life by sovereign power, the political relationship at the heart of Agamben's biopolitics, is *productive* of space in two senses – firstly, it produces the relational space between the sovereign and the individual subject to sovereign power, and secondly, more concretely, it produces the physical space within which that relationship takes place.⁸¹

This spatial element to Agamben's biopolitics is made all the clearer when the focus moves from abstract theorising to the application of his perspective to the historical phenomenon of the camps. For Agamben, the camp is paradoxical insofar as it is '...a piece of land placed outside the normal juridical order, but it is nevertheless not simply an external space'.⁸²

⁷⁹ *Ibid.* Also, see Minca, 'Agamben's Geographies of Modernity', 83-84. This passage is particularly worth reading for its acknowledgement of the influence of Schmitt (in addition to Foucault) on the spatial aspects of Agamben's thought.

⁸⁰ Agamben, *Homo Sacer*, 19.

⁸¹ Ek, R. 'Giorgio Agamben and the spatialities of the camp: an introduction', in *Geografiska Annaler: Series B, Human Geography*, 88:4 (2006), 363-386. 376.

⁸² Agamben, *Homo Sacer*, 169-170.

Whereas the notion of the 'exception' had previously been a temporal situation (the temporary suspension of law in order to take action to preserve the wider legal order), with the camps, the exception is turned into a *location* – an attempt to create a discrete physical zone within which the application of the juridical order is in a state of permanent suspension.⁸³ Agamben argues that the camp, as a spatialised exception into which the 'bare lives' of individuals are moved and, in the process, abandoned by sovereign power has reached a point of such significance that it can be said to form the new '*nomos* of the modern', with this spatial-exceptional approach reflected in the operation of similar 'camp' spaces in wider society – special immigration zones, refugee holding centres, and so on.⁸⁴

What is important to note here is that Agamben's concept of the camp, as both a ubiquitous and paradigmatic expression of modern biopolitical power, is primarily determined as a spatial and territorial arrangement.⁸⁵ It is only within the material space of the camps themselves that the exception begins to become a permanent rule for those within.⁸⁶ This places the concept that we have rendered as 'politics as spatial administration' firmly at the centre of his account of the operation of modern biopolitical power. The demarcation and territorialisation of the purely exceptional space of the camp (and the myriad institutions that approximate 'camps' in Agamben's theory) are essential to his understanding of biopolitics.⁸⁷

⁸³ Agamben, *Homo Sacer*, 175. See also, Murphy, M. P. A. 'The Double Articulation of Sovereign Bordering: Spaces of Exception, Sovereign Vulnerability, and Agamben's Schmitt/Foucault Synthesis', in *Journal of Borderlands Studies* (2019), DOI: 10.1080/08865655.2019.1683053 (accessed 29/07/2020). 8-9.

⁸⁴ Agamben, *Homo Sacer*, 174-175. ('The camp, which is now securely lodged within the city's interior, is the new biopolitical *nomos* of the planet', *Homo Sacer*, 176.). Ek, 'Giorgio Agamben and the spatialities of the camp', 371.

⁸⁵ Ek, 'Giorgio Agamben and the spatialities of the camp', 369.

⁸⁶ Vaughan-Williams, 'The Generalised Bio-political Border', 745.

⁸⁷ On the centrality of the camp to Agamben's concept of modernity, see also Minca 'Agamben's Geographies of Modernity', 92-94.

1.3.3 Historical indicators

In this section, I have demonstrated that a distinctly spatial analysis lies at the centre of both Foucault's and Agamben's biopolitics, and that, for both theorists, the idea that 'politics as spatial administration' would feature as one of the essential characteristics of biopolitical governance. I will now build upon this theoretical argument by identifying the historical indicators that I believe would be sufficient to argue for the presence of 'politics as spatial administration' in a given historical case study.

As with every historical indicator, and with each of the 'common core' elements of biopolitics in this thesis, I am in no way arguing that the division and administration of space is an exclusively biopolitical concept. My argument is that 'politics as spatial administration' is clearly central to biopolitical theories and that its appearance in a case study, along with other historical indicators associated with biopolitical forms of governance ('control of bodies', 'population as object', etc.), incrementally builds the case for the reading of a given historical example through the lens of Foucauldian or Agambenian biopolitics.

The first historical indicator would be the division and differential administration of territorially demarcated spaces within states. Internal spaces are central both to Foucault, thinking of the internal 'exiles' of the poor, the mad, and the otherwise marginalised, into the disciplinary institutions of the nineteenth century, and also to Agamben, for whom the demarcation of the camp, and its exclusion from the established legal order, is the *sine qua non* of the operation of contemporary biopolitical power. The second historical indicator that can be built from the common ground between Foucault and Agamben is the presence of spatially-defined institutions – institutions for whom the space that they inhabit and control is constitutive of both their function and inseparable from their identity. Here, we can think

of workhouses, prisons, and Agambenian camps. These are institutions across whose thresholds one steps out of the 'normal' functioning of the everyday world and into a space with different rules, these are institutions whose gates mark the threshold of a space that changes the subject and the subject's relation to both the institution itself and the wider political order once they have stepped over it. The notion of movement leads to the third historical indicator for 'politics as spatial administration', which is the movement of people across the internal borders of these spaces and institutions by state power. This will consist of examples of individuals, and (perhaps more significantly) groups of people, being targeted and then coerced into movement from one location within the borders of the state into another – but importantly, another space within the state that has a different and territorially demarcated status. Finally, the use of differential juridical status, both of spaces and the people moved into them, as a tool of control and as a mechanism to achieve the movement of peoples into these spaces, constitutes a historical indicator of 'politics as spatial administration' that would satisfy a definition of both Foucauldian and Agambenian biopolitics.

Taken together, we argue that these historical indicators can make the case that the phenomenon of 'politics as spatial administration', a cornerstone of biopolitical theory common to both Foucault and Agamben, is present in a given historical example. To re-emphasise, 'politics as spatial administration' thus forms a necessary, but neither sufficient nor exclusive, indication of biopolitical governance. Should an analysis of a historical example show a form of 'politics and spatial administration', alongside phenomena that substantially approximate to concepts of 'control of bodies' and 'population as object', then it begins to build towards a critical mass of evidence that the political theory of biopolitics offers a distinctive and useful insight into the historical situation. I now move to the final of the four

'common core' elements of Foucault's and Agamben's biopolitics, which are their accounts of the 'epistemic foundations' that make possible the construction and operation of biopolitical power.

1.4 'Epistemic Foundations'

The final characteristic held in common across Foucault-derived biopolitical perspectives will be referred to as 'epistemic foundations'. That is to say that biopolitical governance is only made possible by the production and deployment of distinctive forms of knowledge, and can be identified historically by the same. After making some initial clarifications of how this phenomenon is to be understood, and a caveat about Agamben's relative lack of direct application of the concept within *Homo Sacer*, I will move through four arguments. Firstly, I will establish what we mean by 'epistemic foundations' with regard to Foucault's work; secondly, I will make comments on where fragmentary elements of Agamben's analysis in *Homo Sacer* indicate a link to the concept as a fundamental presupposition from which elements of his biopolitics proceeds. Third, and in keeping with one of the key recurring arguments of this thesis, I will then show how considering Agamben's biopolitics in the context of European colonialism reveals and clarifies the connection between his concept of biopolitics on the one hand, and both the 'epistemic foundations' argument and the particular historical context of European colonialism on the other. Finally, I will identify the historical indicators that it may be possible to apply to a given historical case study. As with the detection of other 'common core' concepts, the successful application of the concept of 'epistemic foundations' to a historical example will add more weight to the case for the utility of biopolitics as an analytical frame.

It is necessary to begin by making a distinction between two different ways in which the epistemic foundations of biopolitics can be seen to appear. The first is the growing hegemony of 'care of life' perspectives and public health/policing discourses at the heart of government. I intend to show that, for Foucault, this proceeds from a revolutionary epistemic change that begins in the world of health and medicine. This new perspective then makes its way to government, with biopolitics an expression of the growing hegemony of this perspective over the traditional view of the functions of the state. The second aspect, we have termed 'epistemic imperialism' (or 'conquest by knowledge production'). This distinction is intended to reflect that the same changes in the way in which knowledge is produced and used also functions, in biopolitical theory, as an important tool for the achievement of power over, and possession of, territory and people.

I do not seek to argue that these two aspects of the epistemic foundations of biopolitical power are in any way mutually exclusive, or themselves limited to a single space of appearance ('epistemic imperialism' as exclusively applied to colonial spaces, for example). I will argue that they are two complementary aspects of the same phenomenon, both reflected in the works of Foucault (and, with a more concerted reading, within *Homo Sacer*), and both present in both the domestic and colonial political orders of the European empires once biopolitics becomes the ruling framework of state power. I will proceed throughout this section to seek to identify those references in the work of Foucault and Agamben that map onto each of these aspects, hegemony of 'care of life' and health-centred framing of government, and 'epistemic imperialism' (or, 'conquest by knowledge production'), with a view to supporting the argument that both, taken together, constitute a single and overriding 'epistemic foundation' for the concept of biopolitics as a whole.

Finally, before moving onto Foucault, we wish to elaborate on our earlier caveat. Unlike the first three ‘common core’ characteristics, that we have argued are constitutive of Foucault-derived biopolitical perspectives (including Agamben’s), it is clear that Foucault is much more concerned with the relationship between knowledge and power than Agamben is in *Homo Sacer*. Consequently, the concept of ‘epistemic foundations’ is one which leans more heavily on Foucault’s work than Agamben’s. In the case of the latter, I will offer here remarks drawn from fragmentary references within *Homo Sacer* in order to show that this concept is also at work, although far from the foreground, in Agamben’s analysis. The quandary here is that this is a concept within which our two principal theorists are far from equally represented. However, it would be impossible to argue for a ‘common core’ of biopolitics, derived principally from Foucault, that does not give a substantive place to the questions of knowledge and power that motivated so much of his work. Whilst this thesis is primarily concerned with Agamben’s biopolitics, it remains essential to acknowledge this important component of biopolitical thought.

1.4.1 Biopolitics as system of knowledge (Foucault)

Much of Foucault’s reputation is built upon his consistent concern with the relationship between knowledge and power. In *The Order of Things*, Foucault established the concept of the ‘episteme’, by which he sets out how the definitions and organisations of knowledge are so important to the structures that underpin societies and cultures, that they can be seen of constitutive of the times themselves, with transitions between epistemes as significant watersheds.⁸⁸ In the modern age, Foucault sees a significant epistemic transition develop

⁸⁸ Foucault, M. *The Order of Things: An archaeology of the human sciences*. (London; Routledge Classics, 2002). xxiii-xxv.

from advances in clinical medicine, as what is seen to constitute 'legitimate knowledge' is itself transformed by the rapid changes in scientific perspectives that accompanied early modern developments in medicine.⁸⁹ The change that Foucault argues follows from these advances in medicine has an importance that is 'not only methodological, but ontological, in that it concerns man's being as a positive object of knowledge'.⁹⁰ As we have already discussed, the opening up of the body and, later, the population as objects of knowledge had a profound impact on government, as it was only when the concepts 'body' and 'population' became visible in this way that the techniques of discipline and the wider regulatory apparatus of biopolitics became possible.

These epistemic changes are not limited to changes in science and medicine, Foucault sees this change as one that leads to a wider change in the nature of power. Power and knowledge, for Foucault, share an intimate and mutually constitutive relationship:

Knowledge and power are integrated with one another, and there is no point in dreaming of a time when knowledge will cease to depend on power [...] It is not possible for power to be exercised without knowledge, it is impossible for knowledge not to engender power.⁹¹

In the interview published as *Questions on Geography*, Foucault traces how the production of knowledge leads necessarily to the 'administration of knowledge', which is itself the beginnings of a structure of power.⁹² Knowledge is infused by power, the power to interpret it, the power to disseminate it, questions of the production and control of knowledge. At the same time, knowledge facilitates the operation of power; for example, the knowledge that underpins the concept of territory, and becomes a condition of possibility for

⁸⁹ Foucault, *The Birth of the Clinic*, 168-169.

⁹⁰ Foucault, *The Birth of the Clinic*, 244.

⁹¹ Foucault, 'Prison Talk', in *Power/Knowledge*, 52.

⁹² Foucault, *Power/Knowledge*, 69.

territorial/regional rule.⁹³ Elsewhere, Foucault is clear to caution against the misinterpretation of the centrality of knowledge to the operation of power as merely ideological. Rather than 'knowledge' as an epiphenomenon that sits above the operation of power, he argues that the power structures of the modern state could not materially function without the organisation of the 'apparatuses of knowledge' that sustain them.⁹⁴ This leads Foucault to a position in which the modern state could not exist without these particular forms of knowledge as its essential precondition.⁹⁵

Following on from the centrality of knowledge to Foucault's theories of power and government established, I now move to discuss his position on the relationships between knowledge, discipline, and biopolitics. My aim here is to focus in from the wider 'epistemic foundations' of state and society in Foucauldian theory to the more particular foundations of biopolitical governance.

Foucault dates the beginnings of the transition to a new mode of government based upon newly organised forms of knowledge to the early seventeenth century and the initial appearance of statistics as a tool of government.⁹⁶ Statistics allowed rulers to quantify, in a way that had not been conceivable before, the strengths, weaknesses, and capacities of the land, property, and people that they ruled.⁹⁷ This development is further inflected by the requirement to develop a new knowledge of the state, a *raison d'état*, capable of simultaneously marshalling and mobilising the capacities made visible by this new knowledge,

⁹³ *Ibid.*

⁹⁴ Foucault, *Society Must Be Defended*, 33-34.

⁹⁵ Jessen, M., and von Eggers, N. 'Governmentality and Statification: Towards a Foucauldian Theory of the State', in *Theory, Culture & Society*, Vol. 37 (1) (2020), 53-72. 62. See also, Lemke, T. 'An Indigestible Meal? Foucault, Governmentality and State Theory', in *Distinktion: Scandinavian Journal of Social Theory*, 8:2 (2007), 43-64. 48.

⁹⁶ Foucault, *Security, Territory, Population*, 273-275.

⁹⁷ *Ibid.*

and, importantly, of concealing that knowledge from rival rulers and states.⁹⁸ In *Discipline and Punish*, Foucault goes on to identify a significant ‘technological threshold’ over which European societies pass once ‘the formation of knowledge and the increase of power regularly reinforce one another in a circular process’.⁹⁹ So, it is with the transition to disciplinary society (also made possible, as we have discussed, by changes in scientific-medical knowledge and perspective), that the knowledge-power relationship peculiar to modern, European society takes its shape and becomes immanently self-reinforcing. It is in the ‘discovery’ (by the same systems of knowledge) of ‘population as object’ that Foucault argues that disciplinary society transitions into biopolitics proper, with the newly disclosed figure of the population *qua* population targeted with interventionist methods to secure governmental objectives. Catherine Mills notes the emergence of the Foucauldian concept of ‘biopower’ from the epistemic foundations of scientific and medical knowledge in the preceding centuries.¹⁰⁰ What these changes make possible, in Foucault’s theory, is the entire structure of the biopolitical regimes of governance, not just the targets (bodies, populations) but also the institutions (hospitals, schools, prisons) and the regulatory innovations (health insurance, education reform, pensions) that typify eighteenth and nineteenth century European states’ attempts to manage and govern the life processes of their nations as a whole.

This change brings us to the first of the two distinct aspects of the epistemic foundations of biopolitics that we seek to identify, which we describe as the rise and hegemony of health as a frame for modern government. What we mean by this is twofold; firstly, that ‘care of life’ and population management, particularly in regard to matters of health and disease, become

⁹⁸ *Ibid.*

⁹⁹ Foucault, *Discipline and Punish*, 224.

¹⁰⁰ Mills, *Biopolitics*, 20-23. See also, Lemke, *Biopolitics*, 35-36.

a principal motivator of government; and secondly, that this leads to the wider perception and framing of other issues by the state through the prism of health management. What Foucault's perspective offers is a chronology of how the hegemony of health as a governmental frame developed from the eighteenth century. In the essay 'The Politics of Health in the Eighteenth Century', a critical precursor to Foucault's later theory of biopolitics, he argues that this is the time that medicine begins to acquire a position of new importance within the administrative structures of society.¹⁰¹ This is reflected by the new status and 'social power' of the doctor, and the fact that doctors find themselves increasingly responsible for administrative tasks given to them by power (as they are charged with engendering and protecting public health by the authorities).¹⁰² A new corpus of knowledge is created, which touches on many areas that are still considered the core interests of government today:

A 'medico-administrative' knowledge begins to develop concerning society, its health and sickness, its conditions of life, housing and habits, which serves as the basic core for the 'social economy' and sociology of the nineteenth century.¹⁰³

Elsewhere, Foucault traces how the epistemic changes and increasing prominence of medicine as it related to population health goes on, in the later eighteenth century, to change government's idea of its own role to one of intervention in the management of the health of the population – one of the key developments that constitutes the Foucauldian notion of 'governmentality'.¹⁰⁴

By the nineteenth century, Foucault argues that medicine has reached the point of being 'if not the most important element, an element of considerable importance' to the operation of

¹⁰¹ Foucault, 'The politics of health in the eighteenth century', in *Power/Knowledge*, 176.

¹⁰² *Ibid.*

¹⁰³ *Ibid.*

¹⁰⁴ Foucault, *Security, Territory, Population*, 351-352.

administrative power.¹⁰⁵ This is due to medicine's capacity to operate at both poles of biopolitics – it can be applied equally to both the individual body and the population as a whole.¹⁰⁶ Whilst this is the historical point at which our wider interest (European colonial modernity) is situated, Thomas Lemke summarises the ways in which the centrality of health, as both of paradigm of government and also, as a result, an object of political contest, continues into the contemporary era in Foucault's later discussions of postwar neoliberalism.¹⁰⁷

What follows from this discussion is that the rise and hegemony of health as a governmental frame is a key element of Foucault's understanding of the development of biopolitics from the eighteenth century onwards. Based as it was upon the concurrent development of medicine and 'medico-administrative' knowledge, this development is a clear indication of the 'epistemic foundations' of biopolitical systems of government.

A second aspect of this phenomenon, which we believe can be derived from Foucault's work and is of particular interest to this project, I have termed 'epistemic imperialism', or, put more simply, 'conquest by knowledge production'. My argument is that the biopolitical forms of governance made possible by epistemic change in Foucault's theory is doubly imperial. It does not simply underpin the expansion and acquisition of lands and peoples abroad; at home, it can be seen in what Lemke describes as the 'ongoing and always incomplete cleansing of the social body' of society.¹⁰⁸ In Foucauldian biopolitics, this is both a positive process of the enhancement of the health and capacities of those who belong to this privileged/legitimate population (whilst simultaneously deploying disciplinary techniques to maximise both their

¹⁰⁵ Foucault, *Society Must Be Defended*, 252.

¹⁰⁶ *Ibid.*

¹⁰⁷ Lemke, *Biopolitics: An advanced introduction*, 49-50.

¹⁰⁸ Lemke, *Biopolitics: An advanced introduction*, 43-44.

productivity and political subjection), combined with a negative process of the exclusion of those who do not belong and, therefore, pose a potential threat.¹⁰⁹

For Foucault, it is in conjunction with this new mode of biopower that the 'right to kill' that typifies traditional sovereign power combines to become the distinctive Foucauldian concept of 'racism'. In *Society Must Be Defended*, in one of the few fragmentary remarks about the colonial that Foucault makes, this apparatus of biopower and racism first appears historically with the 'colonizing genocides' that constitute a major part of the European colonial experience.¹¹⁰ Biopolitics therefore provides an analysis of a governing discourse centred on the conflict between two antagonistic groups within a society, one of which must be eradicated for the collective body of the other to thrive. In *Society Must Be Defended*, we see that this concept is both historically derived from, and directly applicable to, an analysis of European racism in colonial administrations.¹¹¹

This analysis has further developed in a contemporary context by Halit Tagma, who uses Foucault to argue for both the colonial origins of the 'social sciences', and their continuing use as a tool for the American military in their attempt to occupy and pacify Afghanistan and Iraq.¹¹² For Foucault, the social sciences are one of the new forms of knowledge (alongside demography, hygiene, medicine, and many others) that reflect the wider epistemic changes that mark the transition to biopolitical society.¹¹³ Tagma's analysis complements the wider

¹⁰⁹ Foucault, *Society Must Be Defended*, 255-256. On the 'positive' aspects of Foucault's biopolitics, see Ojakangas, M. 'Impossible Dialogue on Bio-power', in *Foucault Studies*, No.2 (May 2005), 5-28. 6, 13-14, 18.

¹¹⁰ Foucault, *Society Must Be Defended*, 257.

¹¹¹ We again refer back to Stoler (see Thesis Introduction, pp.15-16), whose work teasing out the significance of Foucault's colonial blindspot has informed so much of the field, and our own project.

¹¹² Tagma, H. M. 'Homo Sacer vs Homo Soccer Mom: Reading Agamben and Foucault in the War on Terror', in *Alternatives* 34 (2009), 407-435. 424-426.

¹¹³ See, for example, *Discipline and Punish* 224.

point about Foucauldian racism, by using Foucault's analysis to locate particular academic disciplines as key tools for colonial expansion and consolidation of control.¹¹⁴

The argument here, then, is double. Firstly, that Foucault asserts an epistemological foundation to the perspectives and practices of biopolitical government; and, secondly, that it is this perspective (particularly the idea of safeguarding the purity and health of a population through the exclusion and extermination of perceived external threats) that underwrites, by extension, the 'genocides' Foucault sees as indicative of this form of colonialism. Ultimately, for Foucault's biopolitics, the same 'epistemic foundations' that create systems of public health, education, social insurance and so on at home, furnishes the conceptual frames that allow for the dispossession, incarceration, and extermination of 'other' peoples abroad. As 'epistemic imperialism', it also furnishes the tools by which territories and peoples are mapped, classified, and incorporated into the colonial order of power, for which I have sought to use the shorthand 'conquest by knowledge production'.

1.4.2 Epistemic underpinnings of Agamben's biopolitics

The next question to consider is where Agamben, as this project's principal interlocuter, relates to the concept of 'epistemic foundations' of biopolitics. As I indicated in my caveat at the outset of this section, the evidence within *Homo Sacer* is limited to a few revealing, if fragmentary, comments. I will now move through these comments in relation to the two modes of appearance of epistemic foundations that we have argued for in relation to Foucault.

¹¹⁴ We will return to this aspect of epistemic imperialism in more detail when examining our own historical case study. See section 4.1.4 'Epistemic foundations', pp. 265-274.

The first mode of appearance discussed above was the rise and hegemony of health as a frame of government. In *Homo Sacer*, Agamben goes into some detail reflecting on the biopolitical significance of work of German eugenicists in the creation of concepts of 'racial hygiene', which provides an epistemic underpinning for what he describes as the Nazi drive to create and protect a 'German biopolitical body' through the same processes of constitution and exclusion that characterise Foucault's description of racism.¹¹⁵ Agamben goes even further in his analysis of contemporary biopolitics, when he argues that medical-scientific knowledge has reached a level of power that sovereign power itself (insofar as sovereign power is fundamentally a power to determine life and death, to decide between the two, and to apply that decision to the particular lives of individuals) now 'passes through...and cuts across the medical and biological sciences'.¹¹⁶ In this way, Agamben's diagnosis of the hegemony of health as a frame of government is in excess of Foucault's biopolitics, which does not argue that science and medicine assume any form of (quasi-)sovereign power.¹¹⁷

Agamben's discussion of the conflict between the 'People' and 'people' within society is also of a piece with Foucault's reading of biopolitical racism as the clash between mutually antagonistic blocs inside the same political order.¹¹⁸ What remains implicit in Agamben (although not in Foucault, as we have seen) is the role played by the production and

¹¹⁵ Agamben, *Homo Sacer*, 144-153. Interestingly, there is no reference in Agamben's discussions here to Foucault's work, which, one would assume, fits so well as to warrant its inclusion.

¹¹⁶ Agamben, *Homo Sacer*, 163-164.

¹¹⁷ This is indicative of one of the prominent disagreements between Agamben's and Foucault's biopolitics. For Foucault, the medical and biological sciences, the role of doctors, etc., is bound up with the development of 'biopower' as a form of power within modern societies distinct from, and in some ways rival to, traditional sovereign power. This idea of sovereign assumption is easier to make from the Agambenian position, in which biopower/biopolitics are new tools at the disposal of the same sovereign power that has structured western society for millennia. See, Mills, *Biopolitics*, 44-45, 55; and Ojakangas 'Impossible dialogue on bio-power', 13-14, 20-22.

¹¹⁸ Foucault, *Society Must Be Defended*, 60-62, 254-257.

organisation of knowledge in making possible the definitions and distinctions between 'People' and 'people' that structure this division.¹¹⁹

In relation to Tagma's development of Foucault, we also have the tantalising remark towards the end of *Homo Sacer* that chimes with idea of social sciences and other bodies of knowledge structuring the political realities of the present moment:

The third thesis [that the 'camp' is the fundamental paradigm of western politics]...throws a sinister light on the models by which social sciences, sociology, urban studies, and architecture today are trying to conceive and organize the public space of the world's cities without any clear awareness that at their very center lies the same bare life...that defined the biopolitics of the great totalitarian states of the twentieth century.¹²⁰

This brief reflection shows that Agamben's biopolitical analysis operates the same concept of the implication of the academic sciences in the operation of societal power. Agamben awards these disciplines a central role in both 'conceiving' and 'organising' the public spaces in which we live, in much the same way as their earlier incarnations were theorised by Foucault to have organised the public spaces and institutional configurations of both disciplinary society and, later, fully biopolitical government.

In relation to the second aspect of the epistemic foundations of biopolitics, the phenomenon that we have terms 'epistemic imperialism' or 'conquest by knowledge production', the available material in *Homo Sacer* to work with is similarly scant.¹²¹ I believe that this reflects Agamben's fundamentally juridical orientation, with questions of the structure and operation

¹¹⁹ Further discussed in 1.2.2 'population as object' (see pp. 51-54) and 2.5 'form of life' (see pp. 128-129).

¹²⁰ Agamben, *Homo Sacer*, 181-182.

¹²¹ This colonial blindspot and eurocentrism of Agamben's analysis in *Homo Sacer* has been remarked upon by, among others, Mills, *Biopolitics*, 43-44; Ziarek, E. 'Bare Life on Strike: Notes on the biopolitics of race and gender', in *South Atlantic Quarterly*, 107:1 (Winter 2008), 89-105. 89, 93; and Wadiwel, D. 'Disability and Torture: exception, epistemology, and 'black sites'', in *Continuum*, 31: 3 (2017), 388-399. 391.

of laws, constitutions, and their suspensions/exceptions, being the preponderant focus of his historical analysis in *Homo Sacer*. For example, his discussion of the origins of concentration camps immediately moves to a focus on the legal framework surrounding their creation – the fact that they develop from military ‘state of siege’ concepts, rather than civilian penal law.¹²² What this account neglects is the rich body of material supplied by Foucauldian biopolitics that can account for the role of disciplinary techniques and biopolitical governance in the design of the institutional spaces that preceded camps – labour colonies, penal colonies, workhouses, etc. – regardless of the specific codes of law within which the institutions themselves were located and governed.¹²³ This is a missed opportunity for Agamben to bring the implications of Foucault’s earlier work into a direct relationship with one area in which he explicitly criticises Foucault for missing – an analysis of concentration camps and their role in biopolitical society.¹²⁴ Whilst Agamben does not directly adopt or choose to pursue an inquiry into anything resembling ‘epistemic imperialism’ within *Homo Sacer*, it is impossible to build Agamben’s analysis of the camps solely on a juridical basis and without reference to the forms of knowledge, and the transfer of that knowledge within and between administrative centres of power, that remain their implicit condition of possibility.

Overall, Agambenian biopolitics can be seen to share a theory of ‘epistemic foundations’ with Foucault, if in a less pronounced form. This is clearly more visible in relation to the predominantly domestic/internal axis of the rise and hegemony of health as a frame for

¹²² Agamben, *Homo Sacer*, 166-168.

¹²³ One example is of the influence of ‘plague camps’ in India on the development of the South African concentration camps, including the transfer of experts to advise on their design. A direct line of influence from an institution established under Foucauldian/biopolitical public health governance to one of the generally accepted prototypes of the concentration camp. See Kreienbaum, J. ‘Deadly Learning? Concentration camps in colonial wars around 1900’, in, Barth, V. and Cvetovski, R. (eds.), *Imperial Co-operation and Transfer* (London; Bloomsbury Academic Publishing, 2015), 219-235. 222-224. The influence, if any, of ‘Criminal Tribes’ settlements on Boer camps remains, as far as we can tell, to be explored.

¹²⁴ Agamben, *Homo Sacer*, 3-4, 119.

government, where both agree that new forms of scientific-medical knowledge transformed both the role of government, and the tools available for the government to achieve its aims, of protecting, enhancing, and purifying the social body of their 'legitimate populations' ('People'). I have further shown how Foucauldian biopolitics outlines the predominantly (though not exclusively) external phenomenon that we have termed 'epistemic imperialism'. In relation to this, I argue that Agamben's account of the development of concentration camps, central to his own variation of biopolitics, is weakened by its exclusively juridical focus. The failure to bring in a Foucauldian biopolitical analysis of the institutions and techniques that functioned as precursors for the design and operation of the camps themselves shows the limits of Agamben's juridical horizon, and demonstrates that the concept of 'epistemic imperialism' can add to his, and our, understanding of how these camps came to be. Nevertheless, the wider concept of 'epistemic foundations' remains a crucial underpinning for Agamben's concept of biopolitics, although it is clearly a concept in which his interest is dramatically less than Foucault's.

This brings us to the final theoretical argument of this section, which relates to the problematic absence of the colonial from Agamben's biopolitics. I intend to demonstrate how a more applied examination of the conditions of European colonial modernity would not only give Agamben's biopolitics a wider historical purchase, but also enable theorists to make more sense of his idea of the purification of the *bios* of a people being a prime motivator for biopolitical exclusions and elimination of those who do not belong.

As we have seen, one of Agamben's principal concerns is with the concept of the 'People', and he accords the definition and cultivation of the *bios*-life of the political community a

central role in his understanding of biopolitics.¹²⁵ The main historical focus of *Homo Sacer* are the events surrounding the holocaust, principally the stripping-away of the *bios*-life of German Jews, through the Nuremberg laws (reducing them to ‘bare life’ before moving them into the camps), and their extermination in the concentration camps.¹²⁶ What Agamben sees here is the most extreme, and therefore also the clearest, example of the biopolitical drive towards purification of the social body (or ‘the German biopolitical body made actual’, in Agamben’s phrase).¹²⁷ Interestingly, within *Homo Sacer*, there is little discussion of exactly how the idea of *bios* is constructed, particularly in modern states – and this is where the concept of ‘epistemic foundations’ can play a clarifying role.

Through an understanding of the dynamics of biopolitical racism in Foucault, it is possible to argue that Agamben’s *bios* is also epistemically constructed. Foucault traces how racism in that particular sense begins with the acts of ‘colonizing genocides’ typical of European empires.¹²⁸ Elsewhere, he makes his famous ‘boomerang’ argument that practices and techniques of administration that originate in the colonial encounter are often subsequently brought back to the societies from which the colonisers originated.¹²⁹ Taken together, this shows how the colonial *bios*, which is fundamentally the collective life of the political community of the colonising race, is built in opposition to, and thus in need of protection from, the undifferentiated mass of the occupied, indigenous communities.

¹²⁵ Agamben, *Homo Sacer*, 128-131.

¹²⁶ Agamben, *Homo Sacer*, 170-171.

¹²⁷ Agamben, *Homo Sacer*, 172-174.

¹²⁸ Foucault, *Society Must Be Defended*, 257.

¹²⁹ Foucault, *Society Must Be Defended*, 103. Of course, Foucault was neither the first nor the only writer to conceive of the ‘boomerang’ effect. I mentioned Arendt’s shared use of this motif in the Introduction (p.5). One example is her description of German colonies in Africa forming ‘the most fertile soil for the flowering of what later was to become the Nazi elite’. *The Origins of Totalitarianism* (New York; Harcourt Brace Jovanovich, 1973). 206.

I believe that this may be the historical origin of Agamben's People/people distinction, and that the idea of a *bios* that can only be constituted by the exclusion and destruction of others is an example of a Foucauldian 'boomerang' – an idea that Agamben only picks up in his analysis after it has returned to Europe from its earlier origins in the colonial periphery. Finally, we reach the question of *how* that distinction between colonisers and colonised (the 'People' (*bios*), and the 'people' (masses) is established. I have already shown that, in Foucauldian biopolitics, these definitions are fundamentally epistemic ones – determined by census data, ethnography, anthropology, and so on. In using these tools to define the colonised, the colonisers also reflexively defined and constituted themselves, and their own forms of *bios*. At least in its modern sense, then, *bios*, as Agamben conceives it operating in the condition of modern/contemporary biopolitics, is dependent for its definition upon the same elements of knowledge that comprise the 'epistemic foundations' of biopolitics.

In addition to reinforcing the shared common ground between Foucault and Agamben in relation to 'epistemic foundations', this argument opens Agamben's concept of *bios* to real historical content. In this interpretation, the modern incarnation of 'political life' is taken out of its timeless and abstract definition (as simply the binary opposite to the equally nebulous 'natural life' of *zoe*). Instead, it becomes possible to anchor Agamben's analysis of twentieth-century Europe's lethal political dilemmas over the boundaries and extent of citizenship, and the lengths to which states may go to construct and preserve a national ideal of a 'form of life', firmly in the conditions of European colonial modernity that immediately preceded it. This represents a positive step towards historicising the modern element of Agamben's biopolitics, and achieving this step through a more rigorous thinking through of biopolitics in the light of colonial history shows the fundamental value which this deeper historical consideration can have for our understanding of Agamben's political theory.

1.4.3 Historical indicators

With the value of historical anchoring still firmly in mind, all that remains for this section of our work is to argue for the historical indicators that we believe would begin to make the argument that a given case study shows signs of the 'epistemic foundations' of biopolitical administration. Here, I have determined that there are four ways in which we would seek to establish an argument for the application of this concept. With regards to the rise and hegemony of health as a frame for government, I would seek to identify instances of a 'pastoral' discourse in the stated motivations of government, looking for evidence that questions of (bio)political administration are being framed as questions of 'care' for the life of individuals, communities, or entire populations. Secondly, I would argue that any use of the language of the 'health', 'hygiene', etc. in relation to both population management, but also extending into areas of government that are not clearly health-related (for example, crime or other forms of disorder, or social groups associated with them, as an infection/disease; government social/political actions as preventative/immunological responses, etc.), would indicate that the use a Foucault-derived biopolitical analysis is likely to prove valuable. In relation to the second aspect, 'epistemic imperialism' or 'conquest by knowledge production', I would also consider two potential indicators. Firstly, the widespread use of and reliance upon, epistemic practices such as surveying, census-taking, and the data that flows from them, as a basis for decision-making. The second, specifically in relation to acts of occupation and colonisation, would be a political reliance on (pseudo-)scientific language, derived from the disciplines associated with the development of discipline and biopolitics by Foucault, in the language of government and particularly in the justification for political decisions on exclusion, occupation, and the killing of members of indigenous communities.

In this section, I argued for a concept of the ‘epistemic foundations’ of biopolitics as one of the core elements of any biopolitics derived from Foucault. I made the distinction between two forms in which epistemic foundations can be thought through. Firstly, as the rise and hegemony of health perspectives as a frame for government; and secondly, in the form of ‘epistemic imperialism’, also rendered by the shorthand ‘conquest by knowledge production’. The discussion of Foucault showed the centrality of the knowledge-power relationship to his work, and demonstrated how his accounts of the development and deployments of both discipline and biopolitics can be seen as systems of knowledge – dependent, for their conditions of possibility and their continuing operation, upon the very specific organisations of knowledge that are constitutive of the modern European episteme. I also showed how Foucault sees the transition to discipline-biopolitics reflected in the growing status and importance of scientific and medical practitioners (particularly the social role of doctors), the institutional geography of modern states (hospitals, clinics), and the marked transformation in the role of the state, appropriating to itself responsibility for the management and care of the health and hygiene of the population. Again, all of these developments were made possible only by the rise and hegemony of what Foucault referred to as “‘medico-administrative’ knowledge’, and therefore built upon ‘epistemic foundations’.

In relation to the concept of ‘epistemic imperialism’, Foucault’s references to colonialism are fragmentary but revealing. In his remarks about the origins of biopolitical racism in ‘colonizing genocides’, Foucault indicates that the colonial periphery is in fact central to the combination of biopower and the sovereign right to kill. It is in the colonies that the mandate of biopower to protect life first utilises the death function of traditional sovereignty by conceiving of other lives as potential threats to the ‘legitimate population’ that it takes under its care. I have argued that this notion, of who are the legitimate population and who are not, and the ways

in which this differentiation is articulated, are principally epistemic. Tagma's work uses Foucault to identify how those same disciplines that founded this difference, particularly the 'social sciences', have been intricately linked with colonisation in their development and in their application, through to contemporary western conflicts in Asia. In its additional/alternative appearance as epistemic imperialism, then, the epistemic foundations of Foucauldian biopolitics are equally clear.

The case for epistemic foundations in *Homo Sacer's* analysis less explicit, but firm nonetheless. As I acknowledged in the caveat at the opening of the section, it is no surprise that the more juridically-focused work of Agamben spends less time considering the wider elements of the knowledge-power relationship so typical of Foucault. Nevertheless, I outlined Agamben's own readings of the ideological hegemony of the various eugenicists and other medical scientists in the production of Nazi biopolitics, and also his account of the assumption of elements of sovereign power by the scientific and medical professions in contemporary biopolitical issues, including euthanasia, life support, and others. These examples demonstrate that Agamben's biopolitics is at the very least amenable to a theory of the rise and hegemony of health as a frame of government. In relation to epistemic imperialism, Agamben's lack of direct engagement with colonial issues proved problematic. I criticised Agamben's exclusive focus on the juridical location of the concentration camps, and demonstrated how a deeper engagement with colonial history would not only support the 'conquest by knowledge production' thesis but improve Agamben's own account. Put simply, the camps did not appear from nowhere and did not simply appear as an extrapolation of military 'state of siege' laws. There is clear evidence that the camps developed primarily from institutions which were themselves produced by the disciplinary and biopolitical societies built upon those epistemic foundations. This underlines the importance of the contribution

that this thesis intends to make – with a deeper engagement with the history of colonialism, it is possible to strengthen the analytical utility of biopolitics as a discipline within political theory.

Whilst there is clearly an imbalance of interest between Foucault and Agamben on this concept of ‘epistemic foundations’, both theories reflect, and cannot function without, this idea of the centrality of the organisation and production of specific forms of knowledge for the operation of their political systems. I ended by identifying how this insight might be assessed historically and identified two potential indicators that would be of particular use in the field of colonial history. Any historical case study seeking to apply a Foucault-derived biopolitics, and looking to establish whether this concept of ‘epistemic foundations’ can be said to be present, will need to look for evidence of the use of census/survey and other data to quantify the targets (land and people) of colonial occupation; and, by the use of (pseudo-)scientific justifications for colonial actions, derived from the same social sciences that Foucault, Tagama, and others (for example, Said) have demonstrated were complicit in the European imperial projects of modernity.

We will return to these indicators in our own historical case study when we seek to evaluate whether the ‘epistemic foundations’ of biopolitics offers new analytical value to the understanding of the ‘Criminal Tribes’ system of British India.

Chapter One conclusion

This chapter begins at the widest possible focus, looking at Foucauldian-derived biopolitics as a whole and attempting to distil a ‘common core’ of characteristics which are both typical of the biopolitical perspective and could be used to establish the utility of applying a biopolitical

analysis to a given historical case study. The core elements that this thesis argues to be constitutive of a general biopolitical perspective are:

- Control of bodies
- Population as object
- Politics as spatial administration
- Epistemic foundations

No single one of these characteristics is exclusive to the theory of biopolitics, examples of any number of them can be found across the disciplines of politics, history, geography, and philosophy. I would, however, argue that the appearance of all four in any particular theoretical work is strong evidence that the theorist is (with or without formal acknowledgement of the fact) operating within a broadly biopolitical perspective. Further, the presence of all four in a given historical case study, as shown through the identification of historical indicators, is strong evidence that the use of biopolitics as an analytical frame will prove worthwhile.

For 'control of bodies', I showed that both Foucault and Agamben focus on the way in which power works to target and act upon the biological bodies of individuals, particularly in the modern age (the period where Agamben's and Foucault's theories converge). For Foucault, this process is bound up with the development of 'disciplinary' societies. Discipline is both a precursor and a component of biopolitics for Foucault, and the individual body is its principal target. For Agamben, the 'production of the biopolitical body' is the original and ongoing activity of sovereign power. Both theories also maintain the body as a site of contest and potential resistance to the demands of power, the place of self-constitution for Foucault, the material foundation for a new ontology that seeks to evade traditional sovereign power for

Agamben. For both theorists, the body is 'produced by' power – not to say that the physical-biological body itself is somehow created by power, the production is of the body as a concept capable of being targeted, and thus appropriated, by the apparatuses of power that rule in biopolitical society.

In the discussion of 'population as object', I showed how the idea of 'population' as more than a simple aggregate of individuals but as a single, cohesive object with its own characteristics, is the second pole (alongside the individual body) for Foucault's biopolitics. It is in the development of population-level interventions and regulations, married to (and still utilising) the techniques associated with the disciplinary production of docile bodies, that we reach the biopolitical system proper. In Foucault's work, I showed how the notion of 'population' becomes discernible only after the developments in the sciences (particularly, for example, medicine, agriculture, and demography) allowed administrators to identify the characteristics of the population as a whole that they would be able to change. I also noted that his account has this change proceeding from a material-economic motivation, it is about creating a population that is as economically productive as possible, and that this leads to a new and distinctive rationale for the state in assuming responsibility for the shaping of the capacities and conditions of the population as a whole. I also identified how this led to the development of the distinctive form of racism that Foucault sketches, one in which the population is protected from threats to its cohesion or 'health' presented by other/unwelcome peoples. In Agamben, the population sits at the foundation of his idea of a distinction between 'People' (the referent object of a constituted political system; citizens, *bios*, "We, the People") and 'people' (the poor, the disenfranchised/excluded, the undifferentiated masses) within a society. For Agamben, the tension and conflict between People and people is an important motor for political change, as biopolitics attempts to exclude/eradicate the people as a means

of achieving the final constitution of the People as the sole political life in society. I argued that Agamben's theorisation is 'non-material', giving far less significance to the economy, but nonetheless proceeds on the same basis as Foucault's – that the population is capable of being shaped, and that biopolitical power is the power that takes this shaping as its exclusive prerogative and central mission.

For 'politics as spatial administration', I began by acknowledging the prominence given to Foucault as a spatial theorist, and the depth of his interest and outputs on questions of space as a means for the operation of power. We saw how his famous (and frequently used) example of the differential treatments of leprosy and plague showed the development of spatial, disciplinary power at the expense of the earlier approaches of 'exile'. In plague towns, areas were spatially partitioned, segmented into grid patterns, movements restricted, and supervision-reporting regimes imposed upon people in their own homes – all typical of the spatial configurations of modern disciplinary power. I then argued that the spatial component of Foucauldian discipline remains central to his account of the operation of fully biopolitical power, with particular reference to the spatial administrations of institutions such as hospitals, asylums, prisons, and so on. I went on to demonstrate that this core concern with space as a vector of power is also clear throughout *Homo Sacer*. Agamben uses space in his discussion of the nature of the contemporary 'states of exception', insofar as he theorises that sovereign power works through the localisation and territorialisation of the expectation. This was shown to be best represented in Agamben's theory of the camp, in which he described the camps as an attempt to provide a permanent, spatial existence to a phenomenon that had, until the twentieth century, been a temporal (and temporary) concept. This spatial analysis also holds true for Agamben's assertion that the other 'camp'

spaces of modernity (the refugee zones, 'black sites', etc.) are examples of the inherently spatial nature of contemporary biopolitical power.

Finally, I argued for the 'epistemic foundations' of biopolitics as central to Foucault's theory, and common to both him and Agamben. The concept was divided into two distinctive modes of its appearance: the rise and hegemony of health as a frame of government; and 'epistemic imperialism', or 'conquest by knowledge production'. Unsurprisingly, given the centrality of the power-knowledge relationship to his entire *oeuvre*, there was clear evidence that Foucault's biopolitics situates the epistemic underpinnings of the biopolitical system as its fundamental condition of possibility. Foucault shows that both discipline and biopolitics depended upon the transformation of the way in which knowledge was organised and produced from the seventeenth century onwards. Further, it is clear that, for Foucault, the rise of "'medico-administrative' knowledge", the changing status and role of doctors, and the changing institutional configuration of societies, are all hallmarks of this new system of governance built upon those epistemic foundations. Despite the scarcity of reference to colonialism, there is also sufficient evidence that Foucault considered the epistemic production of the 'legitimate population' and its others, which led to the 'colonizing genocide' of European imperialism (as the precursor to the 'boomerang' effect of those techniques being deployed in Europe) to argue that Foucault's biopolitics also acknowledges the aspect of epistemic foundations that we have referred to as 'epistemic imperialism'. For Agamben, I showed that his argument for the central role of medical science in contemporary examples of biopolitics, and his theory of the assumption of sovereign prerogative by the scientific-medical professions, both testify to the rise and hegemony of health as a frame for government in biopolitics. In relation to the second aspect, I argued (again, in the absence of any substantial discussion within *Homo Sacer*) that Agamben's focus on the juridical status of

the camps obscures the more productive avenue of analysing their material development. Examples such as the direct transfer of knowledge from the operation of British 'plague camps' in India to the design of Boer camps in South Africa clearly show both the Foucauldian biopolitical imperative of health and a relationship to the notion of 'conquest by knowledge production' at the heart of the institutions that Agamben argues are paradigmatic of western biopolitics. Agamben's missed opportunity in this regard shows the importance of a deeper historical engagement in his concept of biopolitics, and also the potential greater utility of a more complex Agambenian biopolitical frame to the understanding of these historical developments.

For each of these 'common core' characteristics, we also identified potential historical indicators that would allow scholars to establish whether a Foucault-derived biopolitical analysis may prove useful in developing new understandings of the case under investigation.

The next chapter takes this argument further by identifying those aspects of Agamben's biopolitics which do not map on to a traditionally Foucauldian 'common core' model. These concepts will be the ones that allow us to establish the extent to which an Agambenian biopolitical model will prove more, or less useful than a general biopolitical model based mainly upon Foucault's work and its adoption by other theorists within the discipline.

Ultimately, the presence of those phenomena, to be established through the identification of appropriate historical indicators, will determine whether Agamben's biopolitics is a more valuable tool for understanding certain practices of exclusion in European colonial modernity.

Chapter 2:

An Agambenian Model of Biopolitics

The first chapter laid out my construction of the 'common core' of biopolitics, identifying four key elements that are present in both Foucault and Agamben. The next step towards the goal of applying a distinctively Agambenian biopolitics to an analysis of the Criminal Tribes system will be to identify those elements present in Agambenian theory that are not similarly shared across a wider section of biopolitical theory.

By establishing an Agambenian reading of the Criminal Tribes system, this project will also make a contribution towards correcting the under-utilisation of Giorgio Agamben's biopolitics in the political theory of empire, colonialism, and inquiries into related carceral systems. Agamben, when he appears at all within this literature, usually does so as a theorist of the legal exception.¹ The creation of this distinctively 'Agambenian model', and its application to the case study of British India's Criminal Tribes, will work as an example of the utility of Agamben's wider biopolitical theory in areas of colonial history; for example, research relating to concepts of 'peoples' within empires, relations of colonial society to native communities, and the history of colonial anti-nomadism.

In this chapter, I will identify five components which, whilst not necessarily exclusive to Agamben's work, are distinctive enough to warrant the description 'Agambenian', particularly when present in combination with each other. To demonstrate their relationship to the four points discussed in Chapter One, I will refer to these five points together as the 'Agambenian model'.

¹ See the section on concept of 'regimes of exception' for more detail on the tendency to pigeon-hole Agamben as simple theoretical support for the suspension of the rule of law and 'state of emergency' situations. In particular, pp. 116-119.

The first component of this model, the concept of 'Bare Life', is ubiquitous within Agamben's biopolitics. This section will begin with a discussion of the ways in which something like bare life can be defined and detected in an existing historical case study. I will use a thought-exercise based around the moments of bare life's appearance on the political stage to argue for a base material definition of bare life as a politicised form of *zoe* (the term Agamben uses to describe natural, biological life), constitutively linked with the sovereign power that has produced it, and with three further common characteristics. Those three additional grounds upon which bare life can be defined and identified will be: a relationship of apparent exteriority to *bios* (the term for 'political' life; life gained by, and shared with, the membership of a political community), making bare life a form of life constituted by its non-inclusion into the political order; a tendency toward 'zoe-fication', by which I mean that bare life is often declared and treated as closer to animal life, and with it a consequent tendency to dehumanisation when encountered in political discourse; and finally, as a form of life maintained in a peculiar relationship to sovereign power, characterised by Agamben as being held within the 'sovereign ban', a concept that I will also elaborate here. Those three characteristics will then function as three historical indicators, which I will argue can be used to identify Agambenian 'bare life' in existing historical instances.

The second point of this model is Agamben's motif of 'The Exception'. I will examine the relationship between bare life and the exception established in *Homo Sacer*, and identify the indicators of the existence of such an exception in a given historical case. Firstly, I confirm that Agamben's exception is built upon Carl Schmitt's concept of *Ausnahmezustand*, which is the emergency suspension of a legal order. However, I will also show that Agamben's concept also extends to a more 'capillary' understanding of the exception, one in which particular locations or individuals can be made subject to a localised exception that leaves the rest of

the legal and political order functioning normally. I will demonstrate Agamben's position that the inclusion of bare life into the political order is always maintained by a form of exception, due to the destabilising relationship that he theorises between bare life and the sovereign power which creates it, but cannot tolerate its presence within the political order. This antagonistic relationship makes the exception central to Agamben's account of how biopolitics functions, as a system for the containment and control of bare life. I will then move on to note Agamben's place in existing historical and political literature on this topic as a theorist of the exception, a position from which this thesis seeks to expand. Finally, I will identify two indicators that allow for the definition of the Agambenian exception in historical practice. Firstly, discourses of inadmissibility that intend to make the inclusion of certain groups into the established political community impossible, in the same way as Agamben argues that bare life is treated as unwelcome in the *polis*. Secondly, moving beyond the simple reading of exception as the suspension *in toto* of political order to a concept of exception that also applies to deviations from established legal codes and practices in their targeted applications to particular individuals and groups. Such deviations should be understood as exceptions in the Agambenian sense, and used as an indicator to test the concept's application to a historical situation.

No less prominent in Agamben, and no less associated with his work in the general readership, the third component for this model is 'The Camp'. For Agamben, the camp is made necessary by the failure of modern (post-1789) politics to find a way to successfully incorporate bare life into political order. The camp is the modern response to the appearance of bare life on the European stage *en masse* in the wake of the First World War. I will show that Agamben theorises the camps as attempts to generate a permanent and localised exception within the political space of the state. I will also examine the *de facto* function the camps represent for

the isolation, and then the inscription, of the bare lives moved within them, into the wider political order. These two characteristics of Agamben's camps, permanent localisation of the exception and an isolating/inscribing function for bare life into the political order, constitute the historical indicators that I argue qualify existing or historical institutions as Agambenian camps.

The fourth component of the Agambenian model is 'Trajectories of Escalation'. By this, I mean the tendency within (but not exclusive to) Agamben's biopolitics, for its interventions to continually accelerate into newer and wider measures once the decision to target and remove one group from the body politic is made. I will argue that this escalation can be understood in relation to two distinct processes. The first is 'expansion', as new groups are identified as a challenge to the functioning of the political order, and follow those who have previously been identified in this way as subjects of exceptional measures of control, punishment, and exclusion. Secondly, a tendency towards 'intensification' of the measures that those subject groups already moved into an exceptional position by sovereign power are exposed to. Expansion to new groups, and intensification of measures, will provide the two historical indicators for biopolitical 'trajectories of escalation' that I will argue can be applied to a given case study.

The final characteristic of Agamben's biopolitics to be included here is his concern with the concept of 'form of life'. I will begin by identifying the centrality of the concept of 'form of life' to Agamben's diagnostic work on the development of biopolitics in the *Homo Sacer* project. To avoid any confusion, I will briefly note the distinction between this concept and the hyphenated 'form-of-life' that is an equally significant element of Agamben's affirmative vision for a potentially post-biopolitical future. However, my concern will remain focused on

the diagnostic elements of Agamben's work and will not require prolonged engagement with 'form-of-life' in order to do its work. I will show that the Agambenian idea of 'form of life' moves well beyond the traditional biopolitical concepts of population health. I show that the *bios* created and continually refined by sovereign power in Agamben's theory is more than the simple aggregate of individual lives within a population, or an economically-focused regulative framework for the reproduction of labour power, but is concerned with the *embodiment* of the values of a particular order in the collective life of its people.

To make this argument, I will begin by re-introducing the distinction that Agamben establishes between the 'People' (capitalised, to signify their centrality as the principal foundation and reference object of the state), and the 'people' (lower-case, the undifferentiated mass of the remainder, consisting of the poor, marginalised, non-incorporated, and otherwise excluded). This division is evidence of the importance of the boundaries of political life to Agamben's work since only the 'People' within a society share the *bios*-life of that particular political community. I will then turn to the concept of shaping this *bios*, described by Agamben within *Homo Sacer* in the phrase 'giving form to the life of a people', to show that the active shaping of *bios* is presented in *Homo Sacer* as a principal task of sovereign power. I will show that, for Agamben, this shaping is conducted, particularly in modern biopolitics, through the identification and excision (whether symbolic, legal, or physical) of the lives of those people and groups judged not to belong to the body politic of a given state. I will return to Agamben's assertion that the creation of the 'biopolitical body' is the 'original activity' of sovereign power, in order to conclude that both the material and *non-material* shaping of the 'form of life' of a People is a key element of Agamben's biopolitics. On the basis of this reading of 'form of life' as a category for biopolitical analysis, I will argue that state intervention into the non-economic/reproductive lives of individuals, taking place in the context of a clear

understanding of the sovereign's role in creating or maintaining a 'People', will constitute an historical indicator for identifying the presence of 'form of life' as an aspect of any given historical case study.

Taken together, these five components create a distinctive biopolitical model that cannot be derived from any other thinker in the biopolitical tradition. What the Agambenian model presents, therefore, is a test to determine whether a given historical instance (in our case, the Criminal Tribes system) can be better accounted for by a specifically Agambenian biopolitics, in contrast to the more general, Foucault-derived 'common core' of biopolitics presented in Chapter One. This project will then move on to investigate the historical case study of British India's Criminal Tribes system to determine whether these two models can be convincingly applied to create novel and coherent accounts of the nature and development of this system.

This chapter finishes with a brief additional discussion. There is not sufficient space within this thesis to engage in a full discussion about Agamben's biopolitics *per se* or the voluminous secondary literature (and occasional controversy) that surrounds his work. I have, however, included representative elements of support and critique for each of the five points of the Agambenian model as they are discussed. One such critique, that of James Gordon Finlayson, is particularly challenging – it is a critique that denies the entirety of Agamben's biopolitical paradigm even its most basic foundations. For example, it contests whether Agamben's use of terms like *zoe* and *bios*, and his claims to deriving elements of his biopolitics from Aristotle, can be sustained. The section I have added seeks to engage this argument in some detail, and by doing so, clarify my own use of Agamben and the claims that I make in this project. Ultimately, I will argue that Finlayson's attempt to dismiss Agamben *tout court* is unconvincing, since it takes issue with specific translation issues rather than engage with

Agamben's real concern which is, and remains, the distinctions between natural, political, and 'bare' life. I will however concur with Finlayson and others that Agamben's drive to theorise a single motive force for the development of western politics from the *polis* to contemporary western society can only be gained sacrificing what Finlayson describes as 'historical resolution', in terms of the specificities of the situations, institutions, and people that those theories envelope. I aim to restore a measure of this historical resolution in my own application of the Agambenian model to the specific case of the Criminal Tribes system of British India.

The section ends with my agreement with Samuel Weber that Agamben's biopolitics is at its strongest, and is most clearly derived, from colonial modernity; a modernity that then fed into the conditions and processes in western Europe that form the locus of Agamben's investigation in *Homo Sacer*. Whilst this is not meant as a thorough summary and response to Agamben's biopolitics as a whole, this discussion allows me to engage in a part of the wider Agamben debate that is outside of my scope here, without sacrificing the detailed discussion of those elements of his theory upon which I base my own model.

2.1 'Bare Life'

In order to identify the presence of bare life in a given historical example, it is first necessary set out a definition for the concept that can be used effectively in the course of a case study. Rather than simply engage in a discussion of the abstract characteristics of bare life, I aim to tease out the key components of bare life by reflecting upon the moments at which Agamben's theory indicates that this phenomenon makes a material appearance in the historical process. By working through the thought-exercise in which I identify three distinct moments of bare life's appearance, I hope to avoid some of the ambiguity and 'conceptual

confusion and slippage' in the use of the term 'bare life' that has been picked up in Agamben by thinkers such as Catherine Mills, Andrew Norris, and James Gordon Finlayson.² I also hope to avoid the problematic elision of the concepts of *zoe* and bare life that Nick Vaughan-Williams identifies in a wide range of Agamben scholarship.³

This approach has been motivated by the need to find a theorisation that allows us to do what Agamben does without much elaboration in *Homo Sacer* – to understand how it is possible for him to see an offender against authority figures in ancient Rome, a Saxon outlaw of the European middle ages, a Jew living in Germany in the decade following 1935, a comatose American teenager kept alive on a respirator in the late 1970s, and an Islamist guerrilla fighter held in Guantanamo Bay post-2001, as representatives of the same phenomenon, bare life.⁴

By using the examples of bare life offered within *Homo Sacer*, and the range of historical moments in which I argue that bare life can be said to appear, I will arrive at a series of characteristics that are held in common between this diverse range of examples and instances. The identification and elaboration of those moments of appearance will be the precursor to the creation of a clear, working definition for the concept of bare life.

In short, I will argue that Agamben's theorisation of 'bare life' implies its appearance at three different historical points in what we might think of as the lifecycle of a given political order.

² Mills, C. *The Philosophy of Agamben*. (Stocksfield; Acumen, 2008). 69; Norris, A. 'Giorgio Agamben and the Politics of the Living Dead', in *Diacritics*, Vo. 30, No. 4, (Winter 2000), 38-58. 45, fn17; and, Finlayson, J. G. "'Bare Life" and Politics in Agamben's Reading of Aristotle', in *The Review of Politics*, Vol. 72, No.1 (Winter 2010), 97-126. 112.

³ Vaughan-Williams, N. 'The generalised bio-political border? Re-conceptualising the limits of sovereign power', in *Review of International Studies*, Vol. 35, No. 4 (October, 2009). 729-749. 737, fn.53.

⁴ Finlayson would argue that they simply cannot, since Agamben's theory is based on a mistranslation (and misuse) of Aristotle and cannot be sustained (we will discuss Finlayson's critique in detail at the close of this chapter). His charge of Agamben's 'low level of...historical resolution' (Finlayson, 121) enabling the misidentification of disparate phenomena as representatives of the same 'bare life' is echoed by Ziarek. Ziarek, E. 'Bare Life on Strike: Notes on the Biopolitics of Race and Gender', in *South Atlantic Quarterly*, 107:1, Winter 2008, 89-105. 93.

Firstly, that Agamben theorises that bare life is present at the very beginning of the state, when it forms the pre-existing natural life that is purposefully excluded from the political order. Secondly, that Agambenian bare life also appears during the life of the state, when it is the result of a juridical sanction applied to an individual or group. Finally, that bare life can be present at the moment when the state has ceased to exist, as the residuum of membership of a former political community that constitutes the life of the denationalised former citizen or stateless refugee.

Having argued for the moments of its appearance, I will argue that the material composition of bare life remains the same in each instance, a thoroughly politicised form of *zoe* (natural life), in a constitutive relationship to sovereign power typified by exposure to violence and death, with three further common characteristics. Firstly, that bare life is always defined by its relation of apparent exteriority to *bios*. Secondly, that there is a tendency to *zoe*-fication, that is the approximation of bare life to animal life and the dehumanisation of its subjects, in administrative discourse relating to the bearers of bare life. Finally, I will argue that every form of bare life, at each instance of its historical appearance, is caught in a relationship with sovereign power that can be best described by Agamben's concept of the 'sovereign ban'. That then, will become the definition that will be used in this case study and which will allow other researchers to consistently and coherently identify the appearance, or lack, of Agambenian bare life in the examples of their choosing.

2.1.1 Bare Life: Three moments of appearance

'Formative' Bare Life: Life at the birth the state

One of the key distinctions between Foucault's biopolitics and Agamben's is the question of chronology. As we have seen, for Foucault, biopolitics is a distinctly modern phenomenon

made possible only by scientific and technological advances of early modernity. Nick Vaughan-Williams is correct to note that, for Foucault, biopolitics is ‘a historical *transformation* involving the inclusion of *zoe* in the realm of the *polis*’.⁵ Agamben, on the other hand, theorises modern biopolitics as the revelation of the pre-existing structures and operations of western politics, centred on the relationship between bare life and the *polis* (shorthand for the wider political order) – in which bare life is the precondition for the existence of the political order.⁶

Agamben does not spend as long on the moments of foundation of political orders, and the relationships of life, power, and law that typify them, as he does on those states in conditions of biopolitics *in extremis*, and states in a situation of virtual or material collapse.

What we can glean from *Homo Sacer*’s account of the foundation of the Polis is that ‘bare life’ is a form of natural life (*zoe*, as opposed to the still-forming *bios* of the new political community).⁷ The difference between *zoe* and bare life proper is politicisation, we can therefore think of Agamben’s bare life as a thoroughly politicised form of *zoe*.⁸ Natural life is politicised in this way by its relationship to sovereign power, a relationship established at (and by) the birth of the state, and is typified by the exposure of bare life to violence and death at the hands of the sovereign.⁹ One of Agamben’s stated motivations for his investigation in *Homo Sacer* is to understand how such a politicisation of natural *zoe* is possible.¹⁰

⁵ Vaughan-Williams, N. ‘The generalised bio-political border...’, 734. (Italics in original).

⁶ *Ibid.*

⁷ Agamben, *Homo Sacer*, 7-8.

⁸ ‘Importantly, bare life is neither what the Greeks would refer to as *zoe* nor *bios*. Rather, it is a form of life that is produced in a zone of indistinction between the two.’ Vaughan-Williams, ‘The generalised bio-political border...’ 735.

⁹ Agamben, *Homo Sacer*, 88.

¹⁰ Agamben, *Homo Sacer*, 11.

I interpret Agamben's account to mean, by implication, that natural life (*zoe*) is politicised at this moment of the first constitution of sovereign power, which is also the first constitution of the *bios*-life of members of the emergent political community.

By way of general, and simplified, example, let us think this through in relation to the case of the Athenian *polis*. Here, the entire population, prior to the moment of foundation, would have been in possession of *zoe*-life, and living entirely within what we would recognise as the *oikos* (home). At the foundation of the *polis* (state), those men who become citizens would, on this reading, gain the form of life we are referring to as *bios*. Many others, however, would not – including women, slaves, and the foreign-born. Whilst only a portion of a population gain 'political' life in this sense, the *zoe*-life of everyone else in society is not simply left as the same natural and non-political phenomenon that it was before. The very act of creating the *bios*, which is also the birth of the sovereign power that can determine the boundaries of the *bios* politicises all life within the boundaries of the new order. From that moment, the status of the forms/ways of life and the individual biological lives on either side of the *zoe/bios* boundary within the borders of the state, are made subject to the decision of the sovereign and therefore politicised.

This creation, of both the life that will, and the life that will not, become a formal part of the state is, I believe, the instant in which Agamben theorises that the politicisation of natural *zoe* occurs.¹¹ In different places, Agamben refers to 'the production of a biopolitical body' as the 'original activity of sovereign power', and bare life as 'a product of the machine and not

¹¹ Described by Patricia Owens as a 'constitutive exclusion (which is also an inclusion) of *zoe*...from politics.' Owens, P. 'Reclaiming 'Bare Life'?: Against Agamben on Refugees', in, *International Relations* Vol. 23(4), 567-582. 570.

something that pre-exists it'.¹² It is clear, therefore, that Agamben consistently theorises the production of bare life (that is, the politicisation of natural *zoe*) as a process fundamental to the creation of any political order based upon this form of sovereign power.

This appearance of bare life on the political stage can be thought of as *formative* bare life, to reflect both its logical and chronological priority in the lifecycle of the state. Agamben offers no concrete example in *Homo Sacer* that would fit this reading of formative bare life, hence our illustrative extrapolation above, but this is because he does not spend much time making any concrete analysis of the moment of the foundation of states. What we find in *Homo Sacer* to support the idea of formative bare life as a distinctive moment of appearance are Agamben's assertions that bare life's foundational relationship to political order 'constitutes the original – if concealed – nucleus of sovereign power'.¹³ And, more memorably, that:

In Western politics, bare life has the peculiar privilege of being that whose exclusion founds the city of men.¹⁴

'Juridical' Bare Life: Created by the state

The second instance of bare life appearing in the political realm is as a specific result of a juridical decision. This is the case with the status of *homo sacer* in Roman law, which suspends the application of the recognitions and protections of the state for an individual, exposing them to a constant threat of death without their killing constituting a homicide.¹⁵ This suspension takes the form of *abandonment* (or, the 'sovereign ban'), insofar as the sovereign

¹² Agamben, G. *State of Exception* (Chicago; University of Chicago Press, 2005). 87-88. Also cited by Vaughan-Williams, 'The generalised bio-political border...', 738.

¹³ Agamben, *Homo Sacer*, 6.

¹⁴ Agamben, *Homo Sacer*, 7.

¹⁵ Agamben, *Homo Sacer*, 71-72.

withdraws the status under which the individual has previously been protected and leaves them exposed.¹⁶

The significance of this suspension is that it forces the subject into a position equivalent to the Hobbesian state of nature, but a state of nature that is limited solely to the individual concerned.¹⁷ Whilst the state itself continues to exist and function, Agamben observes that the subject of the sovereign ban lives in a condition in which all men are potentially sovereigns, insofar as anyone can kill them without their death being a homicide.¹⁸ People subject to the juridical sanction are forced into a position of ambivalence relative to the state, that allows for the constant exposure to violence that is a fundamental element of bare life. As Vaughan-Williams notes in the contemporary case of Guantanamo detainees:

It is precisely this production of a deliberate uncertainty surrounding the status of detainees that allows for the indefinite use of exceptional measures against them.¹⁹

For individuals subject to the juridical sanction, the state is indeed, to borrow the phrase from Hobbes that Agamben uses, in *tanquam dissoluta* – it is as though the state has collapsed and the state of nature (which Agamben identifies as a state of exception) becomes the factual condition of that subject's life.²⁰ Each person under this juridical sanction forms an individual island of exception, living in an artificial state of nature (*tanquam dissoluta*), in the middle of an otherwise normally constituted and operating legal-political order.

This appearance of bare life can be described as *juridical* bare life, reflecting the continuing existence of a juridical apparatus that enacts the decision to strip an individual of their *bios-*

¹⁶ Agamben, *Homo Sacer*, 109-110.

¹⁷ Agamben, *Homo Sacer*, 105-107.

¹⁸ Agamben, *Homo Sacer*, 88.

¹⁹ Vaughan-Williams, 'The generalised bio-political border...', 739.

²⁰ Agamben, *Homo Sacer*, 109.

life in this instance. The eponymous *homo sacer* stands in as the perfect example of a juridically-created bare life.²¹ More problematic, but conceptually equivalent, are Agamben's examples of Karen Quinlan, comatose but kept alive for years on a life-support machine (amidst a bitter political battle about keeping her 'alive'), and the 'neomort', a dead body with certain basic biological functions (warmth and circulation of fluids) continued by machines in order to better preserve its organs for transplant.²² Quinlan's condition is not the result of juridical sanction, but she remains 'alive' to the extent that the concepts of life and death have become juridical and political decisions in technologically advanced states.²³ Her bare life is fixed by her position within a functional biopolitical state that can assign political value to life and (non)life by a juridical determination.

'Residual' Bare Life: Survivor of the state

The final appearance of bare life in a political context is located at the chronological endpoint of the life of the state, in the wake of its final collapse. Whereas the subject of the sovereign ban is forced to live a world in which the recognitions and protections of the state have been stripped away from them *as though* the state had collapsed (in *tanquam dissoluta*), there are also instances of real, material collapse of states in which the phenomenon of bare life is revealed.

Agamben argues that bare life is only fully revealed on the political stage at the point of the post-1918 mass displacements and denaturalisations/denationalisations, which have the effect of making millions stateless virtually overnight.²⁴ In *Homo Sacer's* historical narrative,

²¹ Described in *Homo Sacer*, 71-72.

²² Agamben, *Homo Sacer*, 163-165.

²³ *Ibid.*, 164.

²⁴ Agamben, *Homo Sacer*, 131-132. Displacements are self-explanatory. Denaturalisations/denationalisations involve a form of juridical reprisal in which 'naturalised' citizens from enemy combatant nations had their citizenships revoked. Agamben uses the example of the mass denationalisation of naturalised Germans in France in 1915.

it is this appearance of bare life as a mass phenomenon within the borders of the surviving European states that opens the political space for the growth and regularisation of the camps as tools for sovereign power to contain the bare life that it cannot formally incorporate.²⁵ It is also useful to think through examples of fully collapsed states, for example Syria or Somalia in our recent history. A citizen of Somalia (prior to its collapse) is an illustrative case for this form of bare life. In these cases, the *bios*-life that a citizen enjoyed as a member of their particular political community is stripped-away by the collapse of the state that generated and maintained it, leaving them with only the 'bare life' that Agamben argues is all that remains once *bios* has been eliminated. The individual in this example now begins to bear a resemblance to the Roman *homo sacer*, insofar as the withdrawal of their former *bios*-life leaves them marked by an increased vulnerability to conditions of precarity, and potentially even violence at the hands of individuals and groups that they may encounter. If they die at the hands of someone else, it may not even be classed as homicide or recorded at all (in those extreme cases where there is neither the extant law nor functioning legal order necessary to recognise it).

I will describe this appearance of bare life as *residual* bare life, in order to reflect that this form of life is the physical remainder after the collapse and disappearance of the political order that sustained its *bios*. Agamben's main example of residual bare life is, of course, his discussion of the refugees of Europe's two world wars, which follows Arendt's critique of the refugee as the limit-case that brings universalist conceptions of human rights to crisis.²⁶

²⁵ *Ibid.*

²⁶ *Ibid.*; Arendt, 'Origins...', 291-292; Owens, 'Reclaiming 'Bare Life'?...', 572.

On a smaller scale, Agamben includes as a further example those individuals held for a period of four days without juridical supervision or intervention at the French *zone d'attente*.²⁷ Both are apprehended by sovereign power, albeit a different sovereign to the one that constituted their former *bios*, and are thus reduced to the thoroughly politicised *zoe* of bare life by the fact of their former sovereign's non-existence (in cases of historical-political collapse) or non-application (as in cases of denationalisation or appeals for asylum). In Ziarek's memorable phrase, bare life appears on the political stage in the form of 'the remainder of the destroyed political bios'.²⁸

I have argued, then, that Agamben's 'bare life', appears at three distinct points in the life (and death) of states. 'Formative' bare life, that is created by, but has no place within, the new political order of a recently founded state; 'juridical' bare life, by which sovereign power reduces the individual to a condition resembling the Hobbesian state of nature; and 'residual' bare life, when the power sustaining an individual's *bios* has either *de facto* or *de jure* ceased to exist. Understanding these specific moments of appearance allows us to clarify the varied historical conditions that give rise to bare life, and thereby to make sense of the context in Agamben argues that a Saxon outlaw in the middle ages, a German Jew in the mid-1930s, and neomorts 'alive' in western hospitals today, could all be coherently described as representatives of the same phenomenon.

These concepts of formative, juridical, and residual bare life are not meant as any form of systematisation. I offer them as shorthand terms for acknowledging the particularities of each historical situation in which we might seek to determine the presence of Agamben's bare life.

²⁷ Agamben, *Homo Sacer*, 174.

²⁸ Cited in Cooper-Knock, S-J. 'Beyond Agamben: Sovereignty, policing and 'permissive space' in South Africa and beyond', in, *Theoretical Criminology*, 2018, Vol. 22 (1), 22-41. 24.

The primary purpose behind theorising the appearances of bare life in this way is in order to reach a definition based on the common denominators of the phenomenon, those present in all three moments. Such a definition results in an object that can not only be conceptually articulated as Agambenian bare life but, more importantly, be made historically visible on the basis of those characteristics.

2.1.2 Bare Life: A functional definition for historical case studies

Based on the preceding discussion bare life can be defined as a thoroughly politicised *zoe*. We also follow Catherine Mills in describing bare life's exposure to sovereign violence as a constitutive element of its condition.²⁹ For Agamben, it is '[n]ot simple life, but life exposed to death...[that] is the originary political element'.³⁰ In this compact line, we see his arguments that 'bare life' is substantively distinct from *zoe*, that a major part of this distinction is its condition of exposure, and that it is bare life (as opposed to *zoe*) that Agamben sees as indelibly linked to sovereign power from the moment that state, sovereign and *bios* come into being.

From this foundation, I argue that the bare life that appears in each of the three moments discussed above shares three further identifying characteristics. Firstly, that bare life is always held in a relationship of apparent exteriority to a *bios*. In its formative aspect, bare life is that life which cannot be converted into *bios* at the birth of a new political order. Juridical bare life is also formally placed outside of the *bios* of the political community, dramatically revoking the protections and recognitions that are conferred by membership of the *polis*. Residual bare life is marked by a double exteriority to *bios*, the bare life of the refugee is haunted by its own

²⁹ Mills, 'The Philosophy of Agamben', 70-72. See also, Owens 'Against 'Bare Life'?...', 572-573; and Weber 'Bare Life and Life in General', 12.

³⁰ Agamben, *Homo Sacer*, 88.

former *bios* and maintained in marked distinction from the *bios* of any society to (or through) which they move.

Secondly, that bare life is accompanied by what I describe as *zoe*-fication – a dehumanising administrative discourse that approximates the life of each system's *homines sacri* as closer to animal life than truly human. Beyond mere political reductionism, this *zoe*-fication of bare life is a deeper reflection of its basis as politicised *zoe* – which, as natural life, is the aspect that we share with most other animals (movement, respiration, nutrition, reproduction, etc.).

In Agamben's historical example of the separation and extermination of European Jews, we find evidence of this proximity in his argument that the religious and sacral language of 'holocaust' mystifies the biopolitical reality that their reduction to bare life led Jews to be killed 'exactly as Hitler had announced, "as lice," which is to say, as bare life.'³¹ An earlier example in the book is the feudal outlaw discursively transformed into a wolf by the proclamation of *Wulfesheud* (wolf's head) or *Wargus* (wolf-man) – a similar stripping away of *bios* that leaves an individual in a condition proximate to the life of an animal.³² The dehumanisation of bare life is a further effect of the relationship of exteriority to the *bios*, as it is *bios*-life that defines the humanity of the species.

Finally, in all three moments of appearance, bare life can be characterised by the relationship that Agamben describes as the 'sovereign ban'. The sovereign ban can be more easily understood by Agamben's famous motif of the 'inclusive exclusion'.³³ The target of the

³¹ Agamben, *Homo Sacer*, 114.

³² Agamben, *Homo Sacer*, 104-105.

³³ First introduced in *Homo Sacer*, 7. Vaughan-Williams describes the sovereign ban as '...a spatial-ontological device introduced by Jean-Luc Nancy'. Van Der Heiden provides a more detailed discussion of the relationship between Nancy and Agamben's notions of ban/abandonment in 'The abandonment of hermeneutics and the potentialization of the past: Nancy and Agamben on the loss of tradition', in *Philosophy and Social Criticism*, 2015, Vol. 41 (9), 929-944. 931-932.

sovereign ban finds their recognition and protection withdrawn, in the form of a stripping away of their status as a member of the political community.³⁴ Unlike the traditional concept of exile, however, this act does not force the individual beyond boundaries of the political order, and beyond the reach of sovereign power, but rather it results in the subject being held even tighter in the sovereign's grasp:

What has been banned is delivered over to its own separateness and, at the same time, consigned to the mercy of the one who abandons it – at once excluded and included, removed and at the same time captured.³⁵

Whilst the state remains, at least formally, limited in its ability to violate the life (and political rights) of the citizen, those from whom the protections of citizenship are withdrawn are left exposed to the full, and violent, force of sovereign power.³⁶ For Agamben, the banishment of bare life by this sovereign act that has made possible every political order in western history.³⁷

In its formative aspect, bare life is immediately disavowed of its role in the creation and continuation of the *polis*. Bare life, a material foundation of the political community, has the recognition of its place and role suspended, and is discursively cast out of the political centre whilst remaining subject to the unlimited power of the sovereign.³⁸ Again, the Athenian woman and slave can stand as examples of this disavowal and therefore of 'formative' bare life. In juridical bare life, the relationship of the sovereign ban is at its clearest and has been

³⁴ Agamben, *Homo Sacer*, 183-184.

³⁵ Agamben, *Homo Sacer*, 110.

³⁶ Laclau argues that Agamben's identification of the sovereign ban as a fundamental political relation is significant, although argues he should have developed the concept further in order to arrive at its revolutionary potential. Laclau, E. 'Bare Life or Social Indeterminacy?', in, Calarco, M. and DeCaroli, S. (eds.), *Giorgio Agamben: Sovereignty and Life* (Stanford; Stanford University Press, 2007. 13-14. Ziarek develops the same line in her critique of Agamben's construction of 'bare life'. See, Ziarek, 'Bare Life on Strike...', 89 & *passim*.

³⁷ Agamben, *Homo Sacer*, 111.

³⁸ Agamben, *Homo Sacer*, 7-9.

described in detail in *Homo Sacer*.³⁹ The examples developed from Agamben above, the mediaeval 'Wolf's Head' and the German Jew after the Nuremberg Laws, stand as examples of bare life created by a judicial act in an otherwise functioning political order. In its residual aspect, bare life remains within a condition of sovereign ban, although this is now in relation to the political authorities of other, host or successor, states. Whilst the recognitions and protections of any *bios* do not apply, this bare life remains in a condition of total exposure to the sovereign power that apprehends it. Both of Agamben's examples of the modern refugee, and the 'Rwandan child, whose photograph is used to obtain money' by modern humanitarian organisations, are examples within *Homo Sacer* of residual bare life caught within the sovereign ban of the western biopolitical state.⁴⁰

2.1.3 Bare Life: Historical indicators

These three aspects of bare life therefore function as indicators for the appearance of bare life in an historical instance. To successfully argue that a given form of life can be described as Agambenian 'bare life', it is necessary to identify a form of life that is defined and maintained in a relationship of exteriority to a *bios*, around which it is possible to detect the presence of *zoe*-fication as a characteristic of political discourse, and that the relationship between the form of life and sovereign power is one that satisfies Agamben's description of the 'sovereign ban'.

The distinction of the three historical moments in which bare life appears (formative, juridical, residual) will also be of use to political theorists seeking to contextualise the material applications of the concept with more depth and precision. Whilst the physical matter of bare

³⁹ See, for example, Agamben's summary of some of his chosen historical representatives of bare life. *Homo Sacer*, 183-185.

⁴⁰ Agamben, *Homo Sacer*, 131-134.

life remains the same, thoroughly politicised *zoe*, in a condition of complete exposure to sovereign violence, and with the three prominent characteristics described above, further work on the historical conditions that give rise to the appearance of bare life, and the specific conditions that attach to the phenomenon in each instance, remains a field in which additional useful work can be done.

2.2 'Regimes of Exception'

The concept of the exception threads throughout *Homo Sacer*, in addition to forming the titular concern of the second book of the wider *Homo Sacer* series, *State of Exception*.⁴¹ As with sovereign power, to which the concept is inextricably linked, Agamben's exception is developed from Schmitt's concept of *Ausnahmezustand*, the state of emergency which the sovereign may declare and use to act without any limits on the scope of its action.⁴² As in Schmitt, it is the exception that determines the contours of the normal situation in Agamben's analysis.⁴³ We see this polarity reflected in the way in which Agamben constructs *homo sacer* and his modern equivalents as paradigms for Western political life in general, and the way in which the camps become 'the *Nomos* of the modern'.⁴⁴ In both cases, he defines a 'normal' phenomenon (political life in general; the political order of western modernity) based on its most extreme and exceptional case (*homo sacer*; the camps).

⁴¹ Agamben, G. *State of Exception*. Chicago; University of Chicago Press, 2005.

⁴² See, Schmitt, C. *Political Theology: Four Chapters on the Concept of Sovereignty* (Cambridge, MA; MIT Press, 1985). 5-7. For Agamben's adoption of the concept, *Homo Sacer*, 15-17. See also, Weber, S. 'Bare Life and Life in General', in *Grey Room*, No.46 (Winter 2012), 7-24. 10; Mills, C. *Biopolitics* (London; Routledge, 2018). 39-40.

⁴³ Norris brings this element out of Schmitt's *Verfassungslehre* and Agamben's adoption of it in his critique 'Sovereignty, Exception and Norm', in *Journal of Law and Society*, Vol. 34, No. 1 (March, 2007), 31-45. 36-37. See also, *Homo Sacer*, 18.

⁴⁴ Agamben, *Homo Sacer*, 176. Vaughan-Williams argues that the exception forms, for Agamben, 'the constitutive paradigm of the juridical-political order'. 'The generalised bio-political border...', 743.

Ziarek describes the figure of *homo sacer* and the sovereign decision on the exception that creates him:

Banished from collectivity, [*homo sacer*] is the referent of the sovereign decision on the state of exception, which both confirms and suspends the normal operation of the law.⁴⁵

For Agamben, the exception is also the principal means by which the lives that do not belong to the *bios* of a given political order are inscribed into the state in modern biopolitics, via the mechanism of the camps.⁴⁶

For this project, therefore, it will be essential to argue that any Agambenian analysis of a historical case study must be able to identify 'regimes of exception'. I render regimes in the plural in order to indicate that this does not simply mean the macro-level suspension of constitutional order, the Schmittian exception, but seek to identify instances in which specific individuals and groups are targeted by suspensions of, or deviations from, the established legal order. Such occurrences represent instances (or, when systematically practised, regimes) of exception within an otherwise 'normally' functioning legal order. This is the same method that Agamben employs when he argues for the significance of *homo sacer* as an instructive limit-case within Roman jurisprudence, insofar as any individual with this status is in a situation of total exception to the rest of society, whilst the constituted legal order remains fully in force and functioning (a moment of appearance of 'juridical' bare life, in my schema above).

This section will show the way in which the exception is described by Agamben as the principal means for the inscription of bare life into political order. It will also discuss the imperative

⁴⁵ Ziarek, 'Bare Life on Strike...', 91.

⁴⁶ Agamben, *Homo Sacer*, 174-176.

behind the use of the exception for this task in Agamben's work, which stems from his concept of bare life as a disruptive and destabilising element for the constituted order, which can never be fully integrated, mitigated, nor abolished. I will also consider Agamben's existing role in modern historical scholarship in our area of concern (the intersection of biopolitics and colonial history) as predominantly a theorist of the legal exception. With a broad range of examples, I will show that Agamben's use is widespread enough to be considered established, although – as one of the primary aims of our thesis – I argue that the existing use of Agamben mainly as a theorist of exception is an unnecessarily limiting use, given the value of his wider biopolitics as an analytical tool. This section concludes with the identification of two historical indicators by which regimes of (Agambenian) exception can be discerned in a given case. The first indicator will be identified as discourses of inadmissibility that portray the lives of individuals or groups as destabilising or impossible to integrate, in the same way that Agamben describes the challenge of bare life that can only be met by exceptional response. The second is that regimes of exception can be made historically legible by identifying distinctive deviations from established legal codes, statuses, or processes, that are targeted at specific individuals or groups to effect their separation from the ordinary operation of law. As with the earlier section on bare life, I do not claim for this discussion an exclusive nor an exhaustive exploration of the concept and role of the exception within *Homo Sacer*. I am concerned with establishing the elements of 'the exception' that can be both historically visible in the context of an applied case study, transferrable between historically case studies rather than contingent/bespoke to any single situation, and yet remain distinctive enough to claim derivation from Agamben's concept.

2.2.1 Exception as means for inscription of bare life

For Agamben, the problematic relationship of bare life and political order is the constitutive tension that has governed the various structures and developments of western politics from the classical period. For Agamben, the inclusion of bare life in the *Polis*, through an exception which simultaneously excludes *and* captures it, has been the ‘hidden foundation’ of Western politics from its inception.⁴⁷ Bare life is not simply captured but held within the field of sovereign power, through the sovereign ban. As Catherine Mills has described Agamben’s model of this inscription, ‘it is in the decision [of the sovereign, upon the exception] that the originary non-coincidence between life and law is breached and life is truly brought into the sphere of law.’⁴⁸

The imperative for this inscription is the destabilising effect of bare life upon the sovereign order. This form of life is encountered by the sovereign order as one that it ‘necessarily creates within itself, but whose presence it can no longer tolerate in any way’.⁴⁹ This is why Agamben argues that the mass denationalisations of post-war Europe, resulting in the mass appearance of bare life inside domestic political borders, overwhelmed the ability of European states to contain and manage it. The concentration camps then emerged as exceptional measures to contain, control (and thereby to inscribe) bare life within the political order.⁵⁰

I will discuss the mechanics of the inscription of bare life via the camps in more detail in the next section. My argument here is simply that this ‘inscription’ – the way in which bare life (life within a political system that is neither a part, nor welcome to join, the *bios*-life of a political community) is both located and controlled – has, in Agamben’s theory, always been

⁴⁷ Agamben, *Homo Sacer*, 9.

⁴⁸ Mills, ‘The Philosophy of Agamben’, 66-67.

⁴⁹ Agamben, *Homo Sacer*, 179.

⁵⁰ Agamben, *Homo Sacer*, 175.; Owens, ‘Reclaiming ‘bare life’?...’ 572.

carried out by means of exception. In the modern form of biopolitics, this is by the camp – which, as I will explain shortly, is itself an example of, and created by, an exception.⁵¹

2.2.2 Agamben as theorist of legal exception in historical scholarship

In this section, it remains to show how Agamben's work on the juridical exception has determined his current place in the literature on colonial history and imperial rule.⁵² Examples include the first part of Svirsky and Bignall's collection *Agamben and Colonialism*, titled 'Colonial States of Exception' and featuring essays by Yehouda Shenav, Sergei Prozorov, and Marcelo Svirsky.⁵³ The second part of this edited collection, 'Colonial Sovereignty', also heavily features Agamben as a theorist of legal exception, most notably in Mark Rifkin's essay *Indigenising Agamben*.⁵⁴

Laleh Khalili's *Time in the Shadows* is a sustained account of the development of modern Western counterinsurgency and detention tactics from colonial states of exception in the late nineteenth and early twentieth centuries.⁵⁵ Khalili remarks, though without explicit reference to Agamben at that point, that the colonial state of exception was inherent to the creation and maintenance of imperial rule.⁵⁶ Khalili later makes critical reference to both Schmitt and Agamben in her discussion of extra-territorial detention sites, demonstrating a familiarity

⁵¹ See pp. 121-122, below.

⁵² It should be acknowledged that Agamben's construction of states of emergency/exception has also been criticised as bearing little relation to historically-existing states of emergency. Indicative of this line of criticism, and with a range of examples in support, is Cooper-Knock, 'Beyond Agamben...', 25-26.

⁵³ Svirsky, M., and Bignall, S. (eds.). *Agamben and Colonialism* (Edinburgh; Edinburgh University Press, 2012).

⁵⁴ Svirsky and Bignall, *Agamben and Colonialism*, 77-109. Application of Agambenian exception to US-Indian relations at 78-79, and 85-86.

⁵⁵ Khalili, L. *Time in the Shadows: Confinement in Counterinsurgencies* (Stanford, CA; Stanford University Press, 2013).

⁵⁶ Khalili, *Time in the Shadows*, 7.

with Agamben that indicates a framing influence for the latter on their similar notions of a constitutive, and (semi-)permanent, rule of exception.⁵⁷

Other examples focus much more tightly on British India, and similarly tightly on Agamben as primarily a theorist of legal exception. Aidan Forth opens his *Barbed-Wire Imperialism* with reference to Agamben, supporting his position that the state of exception/emergency is the 'hidden ground upon which naked, sovereign power is exercised.'⁵⁸ Forth goes on to demonstrate the exceptional nature of British administration of famine camps in India as an applied example of this approach.⁵⁹ Similarly focused upon India as a prime example of the exception as a constituent element of British rule, Elizabeth Kolsky describes how legislation such as the Murderous Outrages Act demonstrate (with reference to Agamben) an ongoing state of exception in India that sat alongside the established colonial legal system.⁶⁰ John Pincine has written on the application of both Schmitt and Agamben to the question of the criminalisation of political dissent in British India and makes extensive use of the elements of the theory of exception common to both.⁶¹

This is not to state that Agamben to this point has solely featured in the relevant literature as a theorist of exception. One notable example that seeks to work within a wider biopolitical frame here is René Dietrich's 2017 essay 'The Biopolitical Logics of Settler Colonialism and Disruptive Rationality', which uses Agamben's concept of bare life, the *zoe-bios* distinction,

⁵⁷ Khalili, *Time in the Shadows*, 66-67. Khalili's concept of liberal exception was brought to our attention by Aidan Forth, *Barbed-Wire Imperialism: Britain's Empire of Camps 1876-1913* (Oakland, CA; University of California Press, 2017). 39.

⁵⁸ Forth, *Barbed Wire Imperialism*, 6.

⁵⁹ Forth, *Barbed Wire Imperialism*, 56-58.

⁶⁰ Kolsky, E. 'The Colonial Rule of Law and the Legal Regime of Exception: Frontier "Fanaticism" and State Violence in British India', in *American Historical Review*, Vol. 120, no. 4 (Oct 2015), 1218-1246. 1223 (Agamben ref., fn24.)

⁶¹ Pincine, J. 'De-Centering Carl Schmitt...', in *Política común*. Vol. 5 (2014). Hosted by Michigan Publishing, a division of the University of Michigan Library. <http://dx.doi.org/10.3998/pc.12322227.0005.006> (Accessed 20/02/2019; 07:46.)

and the notion of racialised ‘biopolitical hierarchies’ to account for the settler colonial mindset that placed native peoples and their communities outside of the fully political/human and closer to natural/animal life (the process to which we earlier gave the shorthand *zoe*-fication).⁶²

These examples demonstrate that Agamben’s existing use in scholarly works exploring colonialism in general, and British India in particular, tend to make use of Agamben as a theorist of the legal exception. Current and future research into questions of settler colonialism may result in others following Dietrich into an exploration of the wider utility of Agamben’s biopolitics to their areas of study, and it remains one of the main objectives of this project to show that similar value can be gained by opening the study of British India up to an Agambenian analysis that includes, but extends beyond, the concept of ‘the exception’.

2.2.3 Historical indicators

I have argued for two distinct characteristics of the concept of the exception drawn from *Homo Sacer*. The first is that the exception takes the form of the suspension of the legal order (both the Schmittian *Ausnahmezustand*, and Agamben’s more capillary understanding of instances of exception that do not affect the whole) in its relation to those elements it cannot integrate. Having established the Schmittian lineage of Agamben’s ‘exception’, I argued that within *Homo Sacer*, the exception is the essential mechanism by which sovereign power controls the bare life that cannot be admitted or integrated into the constituted political order.

⁶² Dietrich, R. ‘The Biopolitical Logic of Settler Colonialism and Disruptive Relationality’, in, *Cultural Studies ↔ Critical Methodologies*, Vol. 17 (1), 2017, 67-77. See, in particular, 69-72.

This leads to two different indicators for the assessment of how far an Agambenian exception can be said to be present in a given historical case. Firstly, discourses of inadmissibility to 'normal' political order, where individuals or groups are identified, and claims are made that they cannot be successfully integrated into 'normal' society. This follows on from Agamben's position that the forms of life ('bare life') common to certain individuals and groups is destabilising and intolerable to sovereign power, therefore incompatible by definition with any form of *bios* and unable to be integrated. The second historical indicator is evidence of specific deviations from established legal codes and procedures, targeting individuals or communities and removing them from the 'normal' functioning of the rule of law. Again, we are not looking for blanket, or macro-level, states of emergency/exception, which would be the Schmittian exception, but the targeted exceptions and suspensions of order in relation to individuals and groups that is more akin to Agamben's own historical cases of *homo sacer* and the *wulfesheid*.⁶³

2.3 The Camp

The third element of Agamben's biopolitics in this model is the 'camp'. The camp is ubiquitous throughout the final third of *Homo Sacer*, and is essential to Agamben's account of modern biopolitics. I will begin with Agamben's reminder that 'the camp' as a concept is not limited to the historical phenomena of European concentration camps, or even of the contemporary refugee camps, but can be found in other locations and in different guises.⁶⁴ I will move on to discuss Agamben's definition of what constitutes a camp; firstly, a space which is set outside

⁶³ I have chosen not to include Agamben's example of the denationalisation of German Jews here on the basis of Agamben's position that the entire period of Nazi rule can be read as one long period of *de facto* macro-level exception. See, *Homo Sacer* 167-168.

⁶⁴ I also direct the reader again to Stoler's important chapter in *Duress*, exploring the complexities of the concepts of 'colony' and 'camp' in the context of European imperialism. Stoler, A. L. *Duress: Imperial Durabilities in Our Times* (Durham, NC. and London; Duke University Press, 2016). 68-121.

the ordinary functioning of the legal order and thus attempts a permanent localisation of a state of exception. Secondly, a space that attempts to inscribe the bare lives within it into the political order, through their permanent (inclusive) exclusion, or their elimination. Both of these characteristics will form their own historical indicator as to whether an example fits the Agambenian definition of a 'camp', as the relationship of an institution to the wider legal order and the inscribing functions of any such space are immediately historically visible.

2.3.1 'The Camp': Not limited to concentration camps

Agamben maintains that the concept of a 'camp' is not exhausted by the existing historical instances of concentration camps:

...if the essence of the camp consists in the materialization of the state of exception and in the consequent creation of a space for naked life as such, we will then have to admit to be facing a camp virtually every time such a structure is created, regardless of the nature of the crimes committed in it and regardless of the denomination and specific topography it might have.⁶⁵

Agamben offers instances in which the logic of the camps has been realised outside of the more familiar historical examples, such as a football stadium in Albania into which potential refugees were forced by the Italian government, and sealed zones for the detention of immigrants within French airports.⁶⁶ The central point of Agamben's reflections here is, to put it somewhat awkwardly, that the phenomenon of 'the camp' exceeds any particular instance of a camp. In Agamben's thought, the camp is any situation in which a discrete geographical space has been set aside, removed from the normal legal order, and into which the lives of

⁶⁵ Agamben, G. 'What is a Camp?', in *Means Without End: Notes on Politics* (Minneapolis; University of Minnesota Press, 2000). 41-42. Also, *Homo Sacer*, 174. (For clarity, 'naked life' is translation of the same term 'nuda vita' that is translated from Italian in Agamben's later works as 'bare life').

⁶⁶ Agamben, 'What is a Camp?', 42; *Homo Sacer, Ibid.* Cooper-Knock argues this is a result of Agamben's focus on juridical-political systems as the expense of the lives of those forced into camps throughout recent history, 'Beyond Agamben...', 25.

individuals who have no place in the *bios* of the political order are removed and ultimately left exposed to the unlimited power of the state.⁶⁷

It is the relationship between law, space, and time, which forms the foundation for Agamben's understanding of the camp. In *Homo Sacer*, he describes the camp as a 'permanent spatial arrangement' of the state of exception – which had, until the creation of the camp, only ever been realised as a necessarily temporary state of emergency.⁶⁸ Samuel Weber concurs that it is the attempt to create a durable state of exception, a permanent constitutional suspension of the established legal order within the confines of a territorially-demarcated space, that anchors the design of all camps in Agamben's theory.⁶⁹ This attempt to localise and make permanent a state of exception within the internal boundaries of a legal order has, Agamben argued, further propelled the governments who create camps into a Benjaminian situation of the emergency-become-the-rule.⁷⁰

In addition to making permanent what was meant to be temporary, and making material what was meant to be situational, Agamben further locates the historical development of camps outside of the legal order. He argues that the camps have their origin in military law and various 'state of siege' powers, rather than developing from the traditional penal and carceral institutions that function as the corollary spaces of established criminal and civil law.⁷¹ This argument further reinforces the link that Agamben posits between the camp and the state of

⁶⁷ This element of Agamben's thought has been criticised as reductionist, flattening out important differences between historically-specific institutions. See, for example, Weber, 'Bare Life and Life in General', 8.; Owens, 'Reclaiming 'bare life'?...', 575.

⁶⁸ Agamben, *Homo Sacer*, 168-169.

⁶⁹ Weber, 'Bare Life and Life in General', 9. Also, Vaughan-Williams, 'The generalised bio-political border...', 745.

⁷⁰ Agamben, *Homo Sacer*, 175-176.

⁷¹ Agamben, *Homo Sacer*, 20. Re: development of camps from military and 'state of siege' powers, see *Homo Sacer*, 166-167, and *State of Exception*, 11-22. I have presented my criticism of the reductive emphasis on the juridical/military precedents for camps in Agamben in Chapter One, noting the existence of institutional precursors clearly developed from civilian public health and labour systems (p.79, fn.123)

exception by removing the institution from the normal functioning of the constituted legal order, making the Agambenian camp, from the moment of its birth and throughout its existence, a separate and fundamentally extra-legal phenomenon.

2.3.2 Function of Agamben's 'Camps'

The second characteristic of the Agambenian camp is in its function, which operates well beyond any traditional concern for the control and incarceration of problematic individuals. Agamben views the function of the camps as spaces for the isolation and the subsequent inscription of bare life into the political order. Inscription is a very Agambenian term, and it may be useful to think the concept through in terms of 'fixing' – the bare life that does not have a formal place in the political order must be held or fixed, contained within that order without being a part of that order. Whilst the fact of birth (to citizen parents) is sufficient to inscribe (or fix the place of) the native citizen within their political order, bare life requires a mechanism for its inscription that does not confer membership of the *bios*.

This attempt to isolate bare life is not modern, but according to Agamben has been a consistent element of European biopolitics from the first attempt to separate and exclude *zoe* from the *polis* to the present reality of mass democracies.⁷² Elsewhere, Agamben identifies the 'separation of sacred life'⁷³ as an act that forms 'the basis of sovereignty'.⁷⁴ However, the drive toward the identification and separation of bare life within the borders of a nation-state acquired a new level of necessity when the previous mechanism by which Agamben argues that life was 'inscribed' into the political orders of post-1789 European societies was

⁷² Agamben, *Homo Sacer*, 11.

⁷³ 'Sacred' is another synonym for 'bare' life. What is sacred is set aside (cf. abandoned) from the protections of the world of men. Agamben's discussion of this is found in *Homo Sacer*, 81-86.

⁷⁴ Agamben, *Homo Sacer*, 134.

profoundly disrupted by mass denationalisations and movements of refugees in the early twentieth century.⁷⁵

The modern appearance of the camp is directly related to the collapse of this previous mode of inscription, a regulative fiction that birth immediately confers citizenship within a territory (termed the 'birth-nation link' by Agamben).⁷⁶ In his account, this mechanism fell into crisis when the spate of mass denationalisations and the collapse of former empires and countries at the end of the First World War, resulted in the appearance of bare life (denationalised citizens and refugees) inside countries' borders at such scale that the gap between birth and citizenship could no longer be obscured or overlooked by the concept of the 'birth-nation link'.⁷⁷

The camp is the space into which all of the lives that could not be regularly contained and represented within the established political order (the stateless; the marginalised; the political *enemy*) are nonetheless forcibly incorporated – held, as they quite literally are in the camps, by the sovereign power that is the foundation of the political order.⁷⁸

2.3.3 Historical indicators

The concept of 'the camp' is so central to Agamben's account of modern biopolitics that some institution resembling his definition must be located within any example for its successful application. Two 'historical indicators' will enable researchers to assess the presence of an Agambenian 'camp' in any case study. Firstly, that a historically-existing institution approximating an Agambenian 'camp' sits outside of the traditional penal, carceral, and legal

⁷⁵ Agamben, *Homo Sacer*, 128-130.

⁷⁶ *Ibid.*

⁷⁷ Agamben, *Homo Sacer*, 131-133. See also, Minca, C. 'Giorgio Agamben and the New Biopolitical *Nomos*', in, *Geografiska Annaler*, Series B, Human Geography, Vol. 88, No. 4 (2006), 387-403. 393.

⁷⁸ Agamben, *Homo Sacer*, 174-176.

system – to make the case for the institution as a materialisation of an ‘exception’. Secondly, it must be possible to demonstrate that this exceptional institution, space, or regime, has an inscribing function. This could be rendered historically in a number of ways, all of which must demonstrate a regulatory attempt to incorporate bare life into the political order. Examples of this inscribing function can include any measures taken on a continuum from strict excision (extermination), through inclusive exclusion (permanent detention without legal recognition), to reconstruction (reformatory processes, with a view to an ultimate assimilation into the *bios*).

2.4 Trajectories of Escalation

The fourth characteristic of this Agambenian model is the idea that, once biopolitical processes begin to separate out, and intervene to control/inscribe, the bare life that confronts it into the sovereign order, that those measures inevitably generate a momentum that carries them to ever greater scale and intensity. I have chosen to describe these tendencies as ‘trajectories of escalation’. I will show that Agamben, whilst not alone amongst biopolitical theorists in identifying this tendency, theorises this inherent drive to escalations within *Homo Sacer*, and particularly in the case of his modern biopolitics.⁷⁹ I argue that there are two primary trajectories; firstly, the trajectory of ‘expansion’ that seeks to identify new and different groups that do not belong, in order to sustain the biopolitical constitution of a People through the excision of those others – a reactive process of self-definition; secondly, the trajectory of ‘intensification’, whereby the measures to which those excluded or incarcerated are subjected continue to build in scope and severity over time. Those two

⁷⁹ See, for example, Roberto Esposito on Nazi genocide as an escalating auto-immune response in which saving the life of the German people ultimately required ‘the death of all those whose existence threatened its health’. Esposito, R. *Bios: Biopolitics and Philosophy* (Minneapolis; University of Minnesota Press, 2008). 115-116.

trajectories, expansion and intensification, will also be directly translated into the two historical indicators by which it will be possible to discern this particular biopolitical element in an applied historical case study.

2.4.1 Escalations: Expansion and intensification

The distinctions between bare life and political life, *oikos* and *polis*, people and People, are both the root of sovereign power (through its Schmittian ability to *decide* on the boundaries between these distinctions), and the key to understanding our current political situation, in Agamben's biopolitics. Agamben argues that, particularly in the modern age, the fluidity of these borders, and the ability of sovereign power to relocate the line, is part of the configuration of political power with which theory must contend:

One of the essential characteristics of modern biopolitics...is its constant need to redefine the threshold in life that distinguishes and separates what is inside from what is outside. Once it crosses over the walls of the *oikos* and penetrates more and more deeply into the city, the foundation of sovereignty – non-political life – is immediately transformed into a line that must be constantly redrawn.⁸⁰

Using the Third Reich as an example, Agamben argues that it is the act of removing the 'Jewish body' that is, at the very same time, 'the immediate production of... the German body'.⁸¹ This process once begun, however, can never be fully completed. The biopolitical fracture remains, Agamben argues, because there cannot be a People (bios) without there being bare life held in direct relation to it, and so new elements must be identified and removed, reducing, in this case, the German People under Nazi rule to 'a biological body that must be infinitely purified'.⁸² This is the significance Agamben sees in the Nazis' reported plan to X-ray

⁸⁰ Agamben, *Homo Sacer*, 131.

⁸¹ Agamben, *Homo Sacer*, 174.

⁸² Agamben, *Homo Sacer*, 179-180.

their entire population after the war and remove anyone with disease or infirmity from public life and reproduction – both a further expansion, and a deeper intensification, of the biopolitical imperative.⁸³

Finally, as an example of the tendency toward intensification of measures, note Agamben's observation of the 'predilection to resort to exemplary punishment in the state of exception'.⁸⁴ There is clearly a connection between the state of exception and the intensification of punishments in Agamben's understanding of biopolitics. This remark allows us to make more sense of the enormity of what took place in the camps; in those places in which the exception becomes the rule, the most exemplary and intense of punishments therefore become the norm.

2.4.2 Historical indicators

In terms of historical indicators, both of the trajectories of escalation translate quite readily to identifiable phenomena on the ground. In a distinctively Agambenian case, therefore, it should be possible to identify examples of both expansion and intensification. The expansion would involve any attempt to redefine, in order to include more people, the groups that are targeted for separation and intervention. The intensification would involve examining the cases diachronically, to establish whether, over time, the measures to which those targeted groups are subjected become more demanding or severe.

2.5 'Form of Life'

The final element of Agamben's biopolitics to discuss here is the concept of 'form of life'. A minor clarification and contextualisation to begin with. Here, I will be adopting Prozorov's

⁸³ Agamben, *Homo Sacer*, 150.

⁸⁴ Agamben, *Homo Sacer*, 23.

useful distinction within Agamben's later philosophy between the concept 'form of life', the collective life or *bios*-life, of any particular People, and the hyphenated term 'form-of-life'. The latter, in the later works of the wider *Homo Sacer* series, describes Agamben's vision for the future figures of an affirmative, post-biopolitical way of being.⁸⁵ Form-of-life represents for Agamben a potential endpoint of the ontological renegotiation hinted at from the closing chapter of *Homo Sacer*.⁸⁶

This project, however, is engaged with Agamben's biopolitics in its diagnostic mode (reflected by my use of the book *Homo Sacer*, which opened the series on a diagnostic note, as my principal work of reference). I am precluded by both subject matter and limitations of space from fully exploring the models of action and alternative futures that play an increasing role in the later works of the *Homo Sacer* series. Therefore, to be clear, it is Agamben's unhyphenated concept 'form of life', meaning the *bios*-life of any particular People, that I now introduce as the final distinctive characteristic of the 'Agambenian' model of biopolitics.

2.5.1 *Bios*/'Form of Life': Collective body and life of a 'People'

It is clear that, for Agamben, *bios*-life has always been more than a simple aggregate of the political lives of individual citizens and subjects. Returning to one of the recurring elements of Agamben's theory within this thesis, Agamben argues that the English word 'people' obscures the fact that, in other languages, often two different terms have been used to denote the two significantly different meanings of the word.⁸⁷

⁸⁵ Prozorov's exploration of Agamben's concepts of inoperativity and form-of-life from the vantage point of the completed *Homo Sacer* series is instructive for those aspects of Agamben beyond his immediate diagnostic work on western biopolitics. See, Prozorov, S. 'Living a la mode...', *Philosophy and Social Criticism*, Vol. 43(2), 2017, 144-163. 152-153. For reading on the concepts in Agamben, see *The Use of Bodies* (Stanford; Stanford University Press, 2015), 207-210.

⁸⁶ Prozorov, 'Living a la mode', 148.

⁸⁷ Agamben, *Homo Sacer*, 176-178.

As we have seen, Agamben maintains that every population is split into two 'peoples'. He renders as 'People' (capitalised) those who are recognised members of the body politic, for example citizens; in short, the People are the referent object of the constitution and political structure of a given political community, whether city-state, nation-state, republic, or otherwise.⁸⁸ The remainder, those individuals who, whether through poverty, exclusion, religion, ethnicity, or other status, do not form part of the People, he renders with the lowercase 'people'.⁸⁹ This is significant because it shows that the composition and constitution of 'the People' is an immediate political concern in Agamben's theorisation of biopolitics, and that the definition and moulding of the collective life of the People forms one of the fundamental tasks of the biopolitical state.⁹⁰

Agamben's work on this collective 'form of life' begins, in the third part of *Homo Sacer*, in a distinctively biological key. Examining Nazi biopolitics, Agamben shows how biological life was rendered immediately political with no distinction between natural and political elements or forms.⁹¹ The concept of 'life' is no longer simply taken as a natural given, but undergoes a 'transformation...into a political task'.⁹² The individual biopolitical body, and the collective biopolitical body (that is, the 'form of life') of the People, is capable of development, completion, and (in the Nazi case) purification, through the refinement of its individual components. This can be seen through health and eugenic programmes, and also collectively through the identification, exclusion, and elimination of those forms of life (i.e. the uncapitalised 'people'), who do not belong.⁹³ This material aspect of 'form of life' maps neatly

⁸⁸ Agamben, *Homo Sacer*, 177.

⁸⁹ *Ibid.*

⁹⁰ Agamben, *Homo Sacer*, 178-180.

⁹¹ Agamben, *Homo Sacer*, 147-148.

⁹² Agamben, *Homo Sacer*, 148.

⁹³ Agamben, *Homo Sacer*, 149-150.

onto the Foucauldian concept of 'population' and my rendering of 'population as object' as a central component of biopolitical perspectives.

2.5.2 Form of Life: Importance of *non-material* shaping

As the *Homo Sacer* series develops, we begin to see an expanded concept of 'form of life' appear. Agamben's investigation into 'form of life' is a focus for *The Highest Poverty*.⁹⁴ This work helps us understand Agamben's concept through his examination of the many ways in which the lifestyle of western monasticism had been meticulously crafted to inscribe the values of the monastic orders into deeply into the physical fabric of the monks' material lives, '...a perfect coincidence of life and form, example and follower'.⁹⁵ This clarifies that Agamben does not read 'form of life' solely in a material/biological key, as is the case for Foucault's biopolitics of the 'population', but that his concept has always included an account of the shaping of lifestyles, habits, and activities, in pursuit of a literal *embodiment* of values into the biological material of the body. This, then, is the Agambenian 'form of life', the embodiment of the values of a particular society in the form of its particular *bios*.

I have argued that the key to this identification of 'form of life' as a distinctively Agambenian concept is that it is more complex than the materialist notions of biological-economic regulation of populations in the 'common core' of the biopolitical canon.⁹⁶ What is at stake (to use the familiar Foucauldian parlance) in Agamben's form of life, which is not at stake in, for example, biopolitical population management is the *non-material* shaping of the life of

⁹⁴ Agamben, G. *The Highest Poverty: Monastic rules and form-of-life* (Stanford; Stanford University Press, 2013).

⁹⁵ Agamben, *The Highest Poverty*, 95-96.

⁹⁶ Of course, Agamben is by no means the only biopolitical theorist to move beyond this materialist perspective. For example, we have already discussed the distinctive challenge of Hardt and Negri's biopolitics to Foucault's economism (Thesis Introduction, pp.18-19).

the People, in accordance with a series of values determined, and then inscribed into/onto the bodies of the People, by sovereign power.

2.5.3 Form of Life: Historical indicators

The application of an Agambenian model of biopolitics to a historical case study, therefore, would require evidence of a concern for the collective ‘form of life’ of a People by the state, or equivalent sovereign authority. This concern should develop into interventions that move beyond the traditionally biopolitical schemes of public health, individual fitness, eugenics, economic production, and so on, and appear to directly address those non-material elements of *bios*-life that could be described as value-driven.

Of particular interest therefore would be interventions into the non-working time of people that appears to aim at something beyond the stable reproduction of labour-power. The case would be strengthened by evidence that a distinctive concept of a ‘People’ in the Agambenian sense, and the attempt to mould or refine it, lies beneath the practices of power under examination.

Should these elements be present in a historical instance, I suggest that Agamben’s own distinctive formulation of ‘form of life’ will prove demonstrably more applicable, and provide more coherent and consistent insight, than, for example, a concept drawn from simple population-management discourses (biopolitical or otherwise). The key to this Agambenian concept, however, will be the notion of *non-material* shaping.

2.6 Finlayson’s challenge: ‘Zoe’ and ‘bios’ in Agamben’s biopolitics

Having established the Agambenian model with which I will go on to work, I conclude this chapter with some reflections on the critique of Agamben advanced by James Gordon

Finlayson. I single this out for two reasons. Firstly, that it attempts a more thorough undermining of Agamben's biopolitics than most political theory critiques and that, by encountering and thinking through this critique, it is possible to gain useful insight into the way in which Agamben uses the Aristotelian terms *zoe* and *bios* and the roles these concepts play in his theory. Secondly, because his criticism of Agamben's biopolitics lacking 'historical resolution', and thus having little or no analytical value, is one of the charges that our application of Agamben in the context of the Criminal Tribes system will help dispel.

Finlayson's is a highly-charged argument against Agamben's entire biopolitical perspective, and his critique is fundamental enough to require direct reflection and remark. His comments are clearly inspired by an antipathy toward the sensationalist tenor of some of the reception of *Homo Sacer* in English-language scholarship, and, in particular, the researchers who have subsequently sought to apply Agamben's biopolitics to other areas.⁹⁷ At the heart of the criticism are two fundamental challenges to Agamben's project: mistranslation, and anachronism.

Finlayson is a scholar of Aristotle, and is primarily exercised by what he sees as fundamental mistranslations and mis-uses of terms from the Aristotelian canon. Finlayson argues that, both in Aristotle and for ancient Greeks more widely, *zoe* and *bios* are not the binary opposites that Agamben claims when he begins to sketch the classical distinction between forms of life in *Homo Sacer*.⁹⁸ Unlike *dynamis* and *energeia*, which he describes as a 'conceptual pair' in Greek thought, *zoe* and *bios* are simply 'ordinary...Greek nouns' that both

⁹⁷ Finlayson, J. G. "'Bare Life" and Politics in Agamben's Reading of Aristotle', in *The Review of Politics*, Vol. 72, No.1 (Winter 2010), 97-126. (Hereafter, 'Finlayson'). 97-98.

⁹⁸ Finlayson, 107-110. It is also worth noting that a similar fundamental critique of Agamben was made by Peter Fitzpatrick in 2001, contesting Agamben's understanding and use of the juridical sanction '*homo sacer*' in Roman law. See, Fitzpatrick, P. 'Bare Sovereignty: *Homo Sacer* and the Insistence of Law', in, *Theory and Event*, Volume 5, Issue 2 (2001). Available (HTML only) at <https://muse.jhu.edu/article/32622> (accessed 02/07/2019).

denote a range of possible meanings, with some overlap between them.⁹⁹ He draws upon examples of Aristotle using *bios* to refer to the collective lives of some animal species to refute that *bios* is in any way the exclusively and distinctively human form of life described by Agamben.¹⁰⁰ This is not presented as simply Agamben's misreading, but a fault inherited from his adoption of Arendt, who, Finlayson argues, is similarly mistaken on this first-order principle of her philosophy in *The Human Condition*.¹⁰¹ Finlayson also challenges Agamben and Arendt's idea of the strict border between *oikos* (household) and *polis* (state), arguing that Aristotle sees the *polis* as an organic collective composed of multiple villages and towns, each composed of multiple households.¹⁰² To argue that the needs of maintaining and reproducing natural life was somehow excluded from the *polis* is also described as historically incorrect.¹⁰³

Another important charge of mistranslation comes from Finlayson's critique of Foucault, arguing that the epithet 'political animal' (the basis for Foucault's famous definition of the transformation into biopolitics) is also incorrectly applied.¹⁰⁴ Finlayson offers examples of other animals described by Aristotle as 'political', thus seeking to undermine further the idea that political life/*bios* can ever be rendered exclusively human.¹⁰⁵

Such stark mistranslations make Agamben's theory untenable, argues Finlayson, precisely because of how fundamental the use of Aristotle and the concept of the *zoe-bios* distinction

⁹⁹ Finlayson, 109.

¹⁰⁰ Finlayson, 111-112.

¹⁰¹ Finlayson, 103 and 118.

¹⁰² Finlayson, 110.

¹⁰³ Finlayson, 110-111 and 118.

¹⁰⁴ Finlayson, 113. Foucault: "For millennia, man remained what he was for Aristotle: a living animal with the additional capacity for political existence; modern man is an animal whose politics places his existence as a living being in question". Foucault, M. *The History of Sexuality, Vol. 1* (London; Penguin Books, 1998). 143.

¹⁰⁵ Finlayson, 113-114.

is to Agamben's project.¹⁰⁶ It is not simply that they can be corrected or disregarded, but that the entire edifice of Agambenian biopolitics (and Foucauldian, for that matter) has been built upon concepts that would have been unrecognisable in their entirety to the classical world.

This brings us to the charge of anachronism. Finlayson argues that both Agamben and Arendt have attempted to write their contemporary concerns back into classical history, in order to present them as more fundamental to western political history than they truly are.¹⁰⁷ Whilst Arendt's struggle against modern mass consumerism and Fordist production methods are alleged to have led her to argue for the inadmissibility of physical labour to the *polis*, Agamben's concern with the development of concentration camps in the twentieth century led to his abuse of the terms *zoe* and *bios* to fashion a distinction which did not exist in ancient Greece or Rome.¹⁰⁸

According to Finlayson, the result of Agamben's mistranslation and anachronism are to be found in the 'low...level of historical resolution' that his concepts, such as 'bare life' and 'camps' end up having, rendering them functionally meaningless for political or historical analysis.¹⁰⁹ It is worth noting again, that Finlayson is far from alone in criticising the low historical resolution, or ahistorical nature, of some of Agamben's key concepts. I have already noted the charges of conceptual confusion and slippage in Agamben's discussion of bare and natural life made by Catherine Mills and Samuel Weber.¹¹⁰ There are also the critiques of Judith Butler and William Connolly, who argue that Agamben's theory tends to universalise and oversimplify ideas and relationships such as sovereignty, citizenship, and subjectivity, to

¹⁰⁶ Finlayson, 117 and 120.

¹⁰⁷ Finlayson, 116.

¹⁰⁸ Finlayson, 119-120.

¹⁰⁹ Finlayson, 121.

¹¹⁰ Discussed in section 2.1 'Bare life', at pp. 98-99.

the point that all historically-valid distinctions between the situations and struggles of different groups, in different times and places, are rendered invisible – to the detriment of our ability to think through them.¹¹¹

These critiques are not the central concern of this thesis, but are of such a fundamental nature that they require reflection and comment, as opposed to their simple acknowledgement and representation in the text. I accept a number of Finlayson's criticisms, although must disagree with his conclusion that Agamben's biopolitics is unviable in the light of the issues he raises.

The core challenge is, of course, mistranslation – which threatens to undermine Agamben's entire theoretical edifice from the foundations. With regard to the distinction between *zoe* and *bios*, I am happy to accept Finlayson's point on the literal translations, both that each term denotes a range of forms of life and that the two terms are not strictly conceptual opposites in classical Greek. Finlayson believes that this is sufficient to undermine biopolitical analysis since Agamben makes Aristotle's *zoe-bios* distinction the primary starting-point of his work. This is slightly incorrect. Agamben opens *Homo Sacer* with the Greek distinction between the natural and distinctively social/political aspects of human life, which he refers to as *zoe* and *bios*.¹¹² It is the distinction itself which is the central object of Agamben's analysis here, rather than the terminology, and it needs neither the literal translations offered by Finlayson nor an exclusive and strict binary opposition in order for this distinction to exist, or to have existed.

Further, Agamben actually follows Finlayson's own definition of *zoe* and *bios* as two distinct terms, each covering a range of specific instances, *which in places overlap*. Bare life is precisely

¹¹¹ See Vaughan-Williams, 'The generalised bio-political border...', 740-741, for a useful summary. Finlayson makes the same critique, 120.

¹¹² Agamben, *Homo Sacer*, 1-3.

one area of overlap (or, one might say, one zone of indistinction) between natural and political life.¹¹³ Finlayson's definitions do not seem inconsistent with the use to which Agamben has put them in describing the distinction between those forms of life. Disputing the precision of these translations seems somewhat beside the point.

I also reject Finlayson's critique of Foucault on the subject of *politikon zoon*, or man as the political animal. Finlayson is clearly correct in his position that Aristotle recognised political life in other species, but he also acknowledges Aristotle's position that humans are, by far, the most political of animals.¹¹⁴ I find it hard to believe that one cannot legitimately use *politikon zoon* to denote man as *the* political animal, as a marker of the extent and intensity of this political nature relative to others. If man is the archetypal political animal, and the baseline against which the extent of other species' collective/political lives is to be measured, then Foucault's use of Aristotle's phrase to make this point is acceptable. Again, it does not need to be an exclusive claim in order to work, and the literalist critique misses the critical import of the point Foucault is making – that man has always been the animal whose political nature defines him, and that there has been an even more fundamental change in the relationship of human life to politics in the modern age.

Once beyond the question of translation, however, I concur with parts of Finlayson's historical critique, whilst firmly disputing the intellectual dishonesty that he implies. The fact that both Arendt and Agamben are primarily motivated by their present-day political conditions, and embark from there to reconsider the developments that may have led to this situation is an explicitly acknowledged element of their methodologies.¹¹⁵ It is a legitimate mode of enquiry,

¹¹³ Agamben, *Homo Sacer*, 109.

¹¹⁴ Finlayson, 104.

¹¹⁵ For Arendt, I am following Margaret Canovan. See Canovan, M. *Hannah Arendt: A Reconsideration of her Political Thought* (Cambridge; Cambridge University Press, 1992). 67. For Agamben, *Homo Sacer*, 12.

that does indeed run the risks of reading present concerns back into the past. This is not, however, disingenuous, and it is hard to imagine any form of scholarly inquiry that can do anything differently – the researcher is always anchored in their present situation and can only read the past through the prism of those concerns and conditions.

Anachronism is the risk of every researcher that studies a time and place that is not their own, and this does not necessarily mean that the analytical value of Arendt's or Agamben's projects are diminished – not least because they are both primarily concerned with the present (and immediate future) situations in their texts. *Homo Sacer* is not a study of political status in antiquity, and *The Human Condition* is not an exploration of the concept of 'labour', 'work', or the natural and human 'worlds' in classical thought. We make a category mistake in evaluating either work in those terms.

The historical criticism that Finlayson lands, in my opinion, is on Agamben's 'historical resolution', and the charge that his biopolitics is fundamentally a modern/contemporary concern that is made more problematic by Agamben's insistence upon its classical roots.¹¹⁶ I agree with Nick Vaughan-Williams and Samuel Weber, who both observe that Agamben's biopolitics has much stronger purchase on the political conditions of contemporary and colonial modernity than classical Europe.¹¹⁷ It is, in fact, a main point of this thesis to demonstrate that denationalisations and camps that concern Agamben in *Homo Sacer* developed from previously-existing states of exception and usages of camps for the containment and management of populations across Europe's nineteenth-century empires.¹¹⁸ Agamben takes Nazi Germany as the most extreme example of a biopolitical state

¹¹⁶ Finlayson, 116-117.

¹¹⁷ Vaughan-Williams, 'The generalised bio-political border...', 746. Weber, 'Bare Life' and Life in General...', 13-15.

¹¹⁸ Weber, 'Bare Life' and Life in General...', *Ibid.*

in order to more starkly illuminate the operation of biopolitical power,¹¹⁹ but the earlier and often more quotidian examples drawn from the European empires can prove equally instructive. This is a thesis that will shortly be tested by my application of an Agamben-derived biopolitical frame to the institutions and events that comprise the ‘Criminal Tribes’ system of British India in the chapters that follow.

To conclude these reflections, Finlayson attempts a much more fundamental challenge to Agamben’s biopolitics than other political theory critiques of Agamben (for example, Laclau, Butler, and Connolly). It is a challenge that seeks to undermine the foundations of Agamben’s biopolitics, and that argues that this challenge is so fundamental as to render Agamben’s biopolitics meaningless. On reflection, I do not find that Finlayson’s work fatally undermines Agamben, although it certainly shows some of Agamben’s weakness on the issue of historical resolution. On the issue of (mis)translation, I am not satisfied that Finlayson’s definitions of *zoe* and *bios* (and we are happy to defer to his expertise on Aristotle) undermine the central concern of *Homo Sacer*, which is the *distinction* between natural and political life, and which questions where that dividing line is drawn, by whom, and how. On the charge of anachronism, I reject the implication of intellectual dishonesty. Agamben (and Arendt, for that matter) make no claim to be principally studying the past rather than the present, and the rest, in this regard, is a matter of *caveat emptor* – as it is in any other field of scholarship.

I follow and agree with criticisms from multiple sources about the universalising and oversimplifying effects of Agamben’s low ‘historical resolution’. I hope to contribute to countering this tendency by exploring how these general concepts, such as ‘bare life’ and ‘camp’ can be applied to a very specific historical episode. In doing so, I intend to reclaim an element of the

¹¹⁹ Agamben, *Homo Sacer*, 143 (‘...the first radically biopolitical state’)

analytical specificity that Agamben sacrifices in pursuit of a trans-historical position. Following Weber, I also agree that it is in application to the modern, and in particular to European colonial modernity, that Agambenian biopolitics has the potential to do its best work, and to find its optimal application.

I am grateful to have had the chance to engage in some detail with this fundamental critique of Agamben's biopolitics. I hope to have engaged it as openly, and as honestly, as possible and to the benefit of this wider debate. Finally, in the process of reflecting upon Finlayson's challenge and our own response to it, I have clarified my position on the question of Agamben's wider application. This project's objective is to examine the usefulness of Agamben's biopolitics as a tool specifically for the analysis of colonial and western modernity – which I judge to be a more reasonable, and historically viable, claim.

Chapter Two conclusion

This chapter has set out to identify the distinctive elements of Agamben's biopolitics that cannot be found as part of the 'common core' of Foucauldian biopolitics developed in Chapter One. In doing so, my aim has been to set out the ways in which Agamben's biopolitics is capable of providing its own distinctive analytical framework for the investigation of historical case studies. I identified five areas that constitute criteria for considering a given historical instance as an example of Agambenian biopolitics. From each of those concerns, I also developed historical indicators that will enable researchers to see these key concepts of Agamben's thought rendered historically visible.

This chapter opened with the central concept of 'Bare Life', and used the thought-exercise of its three moments of appearance in the political realm to reach a functional definition. We argued that Agamben's bare life is a thoroughly politicised form of *zoe* that is marked by three

additional characteristics – a relationship of apparent exteriority to *bios*, *zoe*-fication in administrative discourse, and its relationship to the concept of ‘sovereign ban’. These three corollary characteristics form the three historical indicators to identify historically existing examples of Agambenian bare life.

The second element of this Agambenian model is ‘Regimes of Exception’. I showed that Agamben built on Schmitt’s theorisation of the *Ausnahmezustand*, whilst developing his own capillary concept of exceptions that apply to individuals or spaces whilst the wider legal order remains in a ‘normal’ situation. I argued that, for Agamben, a key function of the exception is to enable sovereign power to inscribe bare life into the political order, without admitting it (or acknowledging it) formally as part of the *polis/bios*. I briefly surveyed Agamben’s existing scholarly reception as primarily a theorist of legal exception in scholarship of empire (British and otherwise), and made the case for this study as a demonstration of the importance of his wider biopolitics as an analytical tool for the understanding of episodes in imperial history. The historical indicators I selected for regimes of exception were twofold; firstly, discourses of inadmissibility that assert that certain groups or individuals are radically incompatible with membership of a political community. This reflects the relationship between sovereign power, and the bare life that, in Agamben’s theory, it creates but can never tolerate. The second historical indicator are specific deviations from established legal codes and procedures, applied to those target groups or individuals. These deviations stand as evidence for the capillary form of exception theorised by Agamben as the prerogative of sovereign power, leaving its subjects in a state of *tanquam dissoluta* precarity in the midst of an otherwise functioning legal-political order.

The third distinctive element I argued for as a distinctive component of Agambenian biopolitics is 'The Camp'. I showed that, for Agamben, the camp is not simply limited to historical cases of concentration camps, but is a wider concept which can denote any institutional space, placed deliberately outside of the ordinary legal order (a 'localised exception'), into which categories of people are moved without legal protection or oversight. I discussed how the primary function of the camp in Agamben's theory is an inscribing one. As a materialisation of the exception, it is a mechanism for the containment and control of the bare life which cannot be admitted to the *polis*. This function became clear, in *Homo Sacer's* historical narrative, when the mass appearance of bare life in post-1918 Europe necessitated the creation of concentration camps into which refugees, denationalised, and stateless persons could be moved. Consequently, I identified two historical indicators for the presence of an Agambenian camp in any historical instance. Firstly, that the institutions are deliberately placed outside the established, functioning legal and judicial order; and secondly, that what takes place in the camps can be read as a form of inscription of bare life into order, whether by excision, inclusive exclusion, or a pathway to (re)integration.

The fourth category of this Agambenian model is 'Trajectories of Escalation'. I argued that Agamben's biopolitics is a process that builds upon its own momentum and becomes locked into a cycle of escalation that cannot be escaped. I showed this in relation to two different trajectories of escalation that Agamben indicates are present within biopolitics, expansion of biopolitical processes to new individuals and groups, and the intensification of the measures to which targeted population are subjected. The historical indicators here will be relatively self-explanatory – examples of measures against one group being expanded to target others, and increases in the intensity of intervention (whether punitive or reformatory) against those subject to state control in any given case study.

I also identified the key Agambenian concern of 'form of life'. After differentiating the diagnostic, biopolitical concept that we will use from Agamben's more affirmative/future-oriented 'form-of-life', I showed that form of life, for Agamben, does not equate to a simple aggregate of individual lives across a population, or even as collective Foucauldian 'population'. I argued for the importance of *non-material* shaping of the *bios*, with reference to value-driven and non-reproductive interventions in the shaping of collective forms of life. This element of non-material shaping puts Agamben's concept of form of life beyond traditional biopolitical categories and concerns like population health, reproduction of labour power, and the reductive biologism of heredity/eugenics. The historical indicator for this concern is therefore to find instances of non-material (i.e. non-reproductive, economically) interventions into the collective lifestyle and behaviours of a group or individual, guided by a clear understanding that the subjects of these interventions are being brought into conformity with the values that shape the concept of a 'People' through the actions of a sovereign, state order.

These five elements form a test for the usefulness of a biopolitical frame derived specifically from Giorgio Agamben, and an argument for how the analysis of the *Homo Sacer* series moves beyond the 'common core' biopolitical framework established in Chapter One. With both models of biopolitics created, the next part of this thesis will aim to test them both against an existing, and under-explored, area of British colonial history, the 'Criminal Tribes' system of British India.

Chapter Three:

The ‘Criminal Tribes’ of British India

This chapter will survey existing accounts of the system in both primary and secondary literature, before moving on to discuss the historical development, objectives, and methods of the Criminal Tribes Acts and their associated settlements system. My main aim here is to provide a historical summary, so whilst I will relate aspects of the system to the elements of general biopolitical (‘common core’) and Agambenian analysis, the work of properly applying our biopolitical perspectives to the system itself will take place in Chapter Four. Here, I introduce this case study at a level of historical detail that I argue is missing in much of the political theory of biopolitics.

The chapter opens with a brief summary of existing accounts of the Criminal Tribes system, seeking to identify the common themes around which much of the existing literature can be grouped. I will begin with the primary sources (‘administrative literature’), drawn mainly from the Indian (and provincial Indian) government, and from the Salvation Army, whose involvement in the development and administration of reformatory settlements was substantial. In the primary literature, I will show how the theme of the CT system as a rational and necessary response to the exceptional challenge of organised crime is dominant. I will demonstrate the extent of the epistemic basis of this response in the form of the classifications and categorisations that permeate the source material. I will also show the explicit biological reductionism and criminal anthropometrics that characterised the early years of the system in northern India. A further distinctive accompaniment to the concept of hereditary crime is the examination of the specialised languages and rituals that various tribes were said to use in pursuance of their criminal way of life; I will offer examples of each as further evidence for the paradigm of extraordinary crime and exceptional response that

characterises the tenor of the primary sources, and reflects both the imperial assumptions and epistemic commitments of the British-Indian administration.

Following this discussion of the primary sources, I will group prominent works of secondary, scholarly literature in the field according to four themes. These themes reflect my own analysis of where the balance of each account tends to lie in its explanation of the beginnings and underpinnings of the Criminal Tribes system. Firstly, I will identify scholarship that we group under an 'ideological' theme; these works see the CT system as the creation of an inherent sense of racial or civilizational superiority amongst British rulers, building on the concept of 'orientalism', and see the imposition of the CTA as an instrument for the domination of communities of the colonised. I will then move on to examples of accounts with an 'institutional' theme, which agree with the 'ideological' arguments on the orientalist assumptions at the foundation of the CTAs, but see their development as motivated more by concerns for the establishment and functioning of new legal, judicial, political, and policing institutions across British India. The third theme in the secondary literature identifies 'sociological' accounts that developed environmental, social, and cultural analyses of the CT phenomenon, using concepts like anomie, conflicts of social values and success goals, and environmental adaptability to explain how the British came to encounter communities they would label as hereditary, and later habitual, criminals. Finally, I show where in the literature it is possible to identify accounts that prioritise an 'economic' theme, seeking to demonstrate how the (unintended) economic dislocations of British imperial expansion in India profoundly affected the livelihoods of many precarious tribal communities, forcing many to make their livings from activities that would eventually put them under the surveillance and control measures of the CTA.

This review is meant as a survey of relevant literature. I will not make any claims for this review as exhaustive or for my categorisation of the secondary sources as exclusive (in fact, some writers will be cited as examples under more than one theme). This thesis, with its commitment to striking a more equitable balance between political theory and history, is not a work of history. This is an examination of a political theory (Agamben's biopolitics) through the lens of an illustrative historical case study. What this introductory review will do, however, is acquaint the reader with a number of the key scholars of the Criminal Tribes system, along with the common themes and emphases present in both the primary source and secondary literature around the subject. In that way, I hope it will function as a useful, general introduction to the topic before this chapter moves on to the more detailed elements of the case study.

This chapter will then move on to lay out the legal and historical precursors to the first Criminal Tribes Act (1871). I will show that the Criminal Tribes Act (CTA) was a culmination of a century-long development of administrative discourses of 'extraordinary crime', and the increasing use of both collective, and later *communal*, forms of guilt to identify groups and communities that posed a challenge to the consolidation of the British-Indian order. This exploration of legal precursors begins with the East India Company's Article 35 of 1772, which lowered evidence thresholds and established exemplary punishments for highway robbers; then moves on to the response to *Thuggee* in the 1830s, which marks a transition from collective guilt of dacoit and *Thug* gangs to a genealogical approach that began to address *Thuggee* as a criminal community; before noting how this notion of communal guilt reaches its logical conclusion in the 'Punjab Regulations of 1856', which explicitly identifies three tribes (i.e. biological and kinship-based communities) as persistently criminal, and enacts specific control measures for every individual member of the named tribes.

In addition to a changing conception of guilt, I will show that the same body of legislation demonstrates the incremental development of the instruments of control that would come to define the Criminal Tribes system. The early use of pass systems and roll-calls to restrict movement can be seen in the 'Bombay Regulations of 1827', whilst the idea of family incarceration will be shown to have been introduced as a progressive reform of the *Thuggee* prison system in the 1840s. It is also in the changing response to *Thuggee* that the idea of rehabilitative labour is introduced into the realm of extraordinary crime and exceptional response, as the '*Thug Factory*' at Jabbalpur becomes an exemplary reformatory institution teaching inmates methods of industrial manufacturing with the intention of providing skills for their post-incarceration livelihood. Finally, I will show that the *de facto* movement restrictions of the 'Bombay Regulations' are formalised into defined 'reservation' areas for the tribes subject to the 'Punjab Regulations' in the late 1850s.

Through the preceding, I intend to show that the Criminal Tribes Act of 1871 is the culmination of two trajectories – the trajectory of the concept guilt from individual, to collective, to communal; and a trajectory of methods of control, increasingly refining the components of movement restrictions, correctional labour, family incarceration, and mandated settlement locations. In this way, I will argue that the Criminal Tribes Acts and their associated settlements system are a clear continuation, and a logical culmination, of both tendencies.

The third section of the chapter examines the key elements of the Criminal Tribes legislation itself. I begin by making the case for the importance of legislation itself both to our study, and to the wider study of political theory, as the point of materialisation between the discursive/epistemic commitments of ruling ideologies and the lived realities of people subject to them.

In the case of the Criminal Tribes Acts, I will take a detailed look at the key elements of three pieces of Criminal Tribes legislation. In my analysis of the original act (1871), I will identify the parts of the Act that establish the foundations of the system's exceptionality, making notifications of CT status self-justifying and removed from judicial oversight, and the early moves towards the use of settlements as the primary instrument of control.

The 1897 Amendment to CTA 1871 will be shown to mark a triple escalation of the CT apparatus; firstly, an expansion of the CTA's geographic reach by its (potential) application to the whole of British India; secondly, the extension of the CTA's ability to intervene in the family life of CT members, via the separation of parents from children and the placement of the latter into institutions of reformatory education; and finally, the intensification of the punitive and disciplinary measures designed to keep order within the settlements themselves. These escalations are significant for our Agambenian model of biopolitics, insofar as 'Trajectories of Escalation' mark a distinctive component of the Agamben-derived model that I will apply to this case.

I will then identify important elements from the pivotal piece of CTA legislation, the Criminal Tribes Act of 1911. This Act marks the systematisation of the CTA, as it is actively applied to the entirety of British India, and as such can be seen as the transition from the early phases of the system into its mature form.

The fourth, and main, section of this chapter is an examination of the development, objectives, and methods of the Criminal Tribes settlements system, with a particular view to identifying areas that indicate the analytical value of a biopolitical reading of the system as a whole. The development of the system will be accounted for by tracing significant precursors in both Britain and India through the course of the preceding decades. I will show that the

idea and practice of 'labour colonies' for the vagrants and 'dangerous classes' of Victorian Britain were developing at the same time as the CTA system, and recall that movement restrictions and punitive residential settlement had already been established for decades in India, for example in the 'Bombay Regulations' (1827) and 'Punjab Regulations' (1856) respectively. A further development, essential to understanding the context of the CTAs and an important of both the British labour colonies and the Punjab Regulations, is the discourse of 'rehabilitative' and 'correctional' labour. I will identify how this notion plays a key role in the transition of the *Thuggee* response from a traditional model of violent repression and deterrent, to something resembling the concept of 'reconstructive biopolitics' that is of interest to our investigation. The Criminal Tribes settlements will be shown to mark a culmination, or at least combination, of these separate, but clearly inter-related, historical antecedents.

The overview of the objectives of the settlements system will use evidence from primary and secondary sources to identify five distinctive objectives for those members of Criminal Tribes incarcerated within them; all of which, and especially when taken together, can be seen as contributions to the wider goal of a 'reconstructive biopolitics' that will facilitate the re-integration of CT members into the body of the British-Indian population after the transformation of their way of life into one more appropriate for the administration's idealised structure and function of the latter. I will show how disciplinary control, and the teaching of new habits of agriculture, industry, and property ownership were instilled in settlement detainees. I will identify two forms of 'reclamation' (a term used widely in the primary CT literature) that the settlements system was increasingly designed to effect; the reclamation of CT individuals to a way of life more appropriate to the governing authorities, including through an explicitly inter-generational approach that targeted children as a 'rising

generation' to be brought into conformity; and I will show that the reclamation of people was a precursor, in administrative discourses, to the wider reclamation of wild, Indian 'waste lands', which would be brought into cultivation, and thus integrated into the productive and market economy of British India, by the reformed Criminal Tribesmen. Finally, I will examine the related objective of the production and integration into British-Indian economy and society, of CT labour. I will argue that each of these objectives alone would be amenable to a biopolitical reading of the Foucauldian type, but that the combination of them, when viewed as a unitary intention to produce a 'form of life' appropriate to the administrative ideal of British-Indian society, demonstrates an ambition of Agambenian scope – a properly 'reconstructive' biopolitics.

The methods by which these objectives were to be met furnish further evidence that the Criminal Tribes system can be coherently and comprehensively accounted for through the application of biopolitics. I will begin by examining the more traditional elements of the CT settlement apparatus, in the form of movement restrictions, and regimes of physical discipline and punishment. Following this discussion, I will move on to five methods of control that I believe to be in excess of traditional penalty. I will look at the regulation of time within the settlements, down to the daily, and sometimes hourly, routines. I will examine practices of normative transference, the use of punishments and (more significantly) incentives for the adoption of recognisably Western standards of behaviour, hygiene, dress, and occupation. I will show how tuition in agricultural and industrial production formed a key element of reforming CT settlement inmates into potentially productive members of the imperial Indian economy. In the discussion of what I have chosen to describe as 'wider institutional normalisation', I will look at how the introduction of institutions such as clinics and banks, abstract institutions like the concept of waged labour, and recreational institutions in the

form of lantern shows, wrestling matches, and so on, were all part of a distinctive drive to acclimatise members of Criminal Tribes within the settlements to the institutional landscape (at the time, still very much under construction) of British India. Finally, I will note the importance of family incarceration, and the separation of children from families for placement into reformatory education institutions, as a method of control and reform of the Criminal Tribes. Just as the preceding section laid out systemic objectives, facilitating the wider meta-objectives of reconstruction and (re)integration of the lives of the Criminal Tribes, this section will examine the material mechanisms by which those objectives were to be met. These methods of control will be shown to be more ambitious than simply physical constraint, and I will demonstrate that reading these methods of instruments of a biopolitical reform makes sense of the combination of these individually striking, yet conceptually diffuse, measures.

I will conclude chapter with a final re-statement of the material covered, and reflect on where I intend this work to sit in relation to the existing literature. Having seen the ways in which the existing literature seeks to answer 'how' and the 'why' of the development and application of the Criminal Tribes apparatus, I will make the case that this thesis is aiming at a different target. Through the application of an Agamben-derived biopolitical frame, I argue that it becomes possible to provide an account that could be described as 'the why of the how'. It is my case that biopolitics can offer an original, consistent, and coherent account for the combination of the logics and instruments of control that characterised the CT system. Having surveyed the system and its existing accounts in this chapter, I will then move on to make the detailed case for the application of both the 'common core' and 'Agambenian' models of biopolitics in the next.

3.1 Themes in the History and Historiography of the Criminal Tribes

This case study opens with a brief survey of some of the primary sources and secondary scholarship on the 'Criminal Tribes' system of British India. This is not intended to function as a 'literature review' in the traditional sense. My objective is neither to provide a comprehensive overview of the extent of the literature, nor to develop any chronological account of the development or current state of the field. Rather, I have three aims for the following discussion. Firstly, to identify some of the key works and common themes that can be found across the Criminal Tribes literature. Secondly, to use this discussion of these themes to familiarise the reader with the tenor of many of the accounts of the design and workings of the CT system. Finally, for this section to work as a general introduction to the topic of the Criminal Tribes, providing some broader historical context for readers new to this topic, before moving into the more detailed exposition of the historical development, objectives, and methods of the system that comprise the bulk of this chapter.

This section will lay out five key themes that recur throughout writings on the Criminal Tribes. I open with a discussion of the primary sources, adopting Rachel Tolen's term of 'administrative literature' to describe these, in which the dominant theme is the discourse of the Criminal Tribes as an exceptional challenge to the legal and political order, and the CT system as a rational and necessary response.

I then turn to look at the secondary literature, and identify four broad themes around which prominent works in the field can be grouped. For ease of reference, I describe them by the following shorthand:

- 'Ideological' accounts – the Criminal Tribes system as a blunt imposition of imperial power on Indian communities, underpinned by 'orientalist' ideology;

- ‘Institutional’ accounts – these seek to account for the development of the CT system as a response to the historical contingencies thrown up by the attempt to establish the institutions of colonial power in India;
- ‘Sociological’ accounts – that seek to identify environmental, social, and cultural underpinnings for the phenomena apprehended by colonial authorities as hereditary criminality;
- ‘Economic’ accounts – that seek to demonstrate a firmer, materialist foundation for both the phenomenon of ‘Criminal Tribes’ and its response in the unintended economic shocks of imperial development.

These four groupings are not meant to be categorical or to pigeon-hole writers or individual pieces of work exclusively within them. They are a novel set of groupings intended to offer my reflections on where the balance of emphasis lies across the range of those accounts. In this way, I aim to provide a new insight into the broad themes under which prominent scholars have sought to explore the beginnings and underpinnings of this system. I also hope that this section will provide a sufficient overview of the historical topic and the common themes in the existing commentary prior to the detailed case study that follows.

3.1.1 ‘Administrative Literature’ (Criminal Tribes as exceptional challenge and response)

Unsurprisingly, the major theme in primary sources written by British colonialists and authorities, these works characterise the introduction of the Criminal Tribes Act (and its predecessors back to the anti-*Thuggee* campaigns of the 1830s) as rational responses to a previously unknown and exceptionally challenging form of organised criminality.¹

¹ I have limited myself here to sources linked to direct colonial and political administration of the Criminal Tribes system. There is a wider ‘administrative literature’ which could prove equally enlightening – for

They also exhibit a number of common features that show the application of nineteenth-century natural- and social-science approaches to the study of non-European cultures, including drives to classify, formalise and categories people, cultures, and languages; the use of theories of criminal anthropometrics and biological determinism in treatments of Criminal Tribes; and in the languages of retribution and rehabilitation that these sources employ. Of course, the relation of these approaches to the concept of 'epistemic foundations', that I argue for as a critical component of biopolitical analysis, is an important one, to which I will return in Chapter Four.

Rachel Tolen in her essay *Colonizing and Transforming the Criminal Tribesman* uses the term 'administrative literature' to characterise these sources, and as a description of both the authors, the intent, and the audience, it is an effective one that I will use in the same vein.²

These works often focus upon the different ways in which hereditary criminality presents itself in different tribes, their preferred criminal activities, rituals, appearance, location and geographical spread, and languages or distinctive forms of slang ('argots'). The approach is therefore anthropological, in its original nineteenth-century fashion, and ethnographical, but again strictly within the modern European epistemological framework of detached

example, looking at the influence of the legal thought of nineteenth century jurists such as Henry Maine on the development of administrative attitudes towards 'traditional' native law and custom. This is a little outside the scope of this thesis, given the additional literature that would be necessary to fully explore those arguments, and I have chosen to focus as directly upon the Criminal Tribes system as possible. A useful summary of Henry Maine's thought and its contribution to British colonialism can be found in Mantena, K. *Alibis of Empire: Henry Maine and the Ends of Liberal Imperialism* (Princeton, NJ; Princeton University Press, 2010). Particularly Ch2, 'Inventing Traditional Society'.

² Tolen, R. 'Colonizing and Transforming the Criminal Tribesman: The Salvation Army in British India', in *American Ethnologist*, Vol 18, No 1 (Feb 1991). 106-125. 108.

observation, 'scientific' drives towards schemes of classification, and the assumption of a cultural and civilizational superiority.³

These works follow the example set by William Sleeman's *Ramaseeana*, his account of 'Thug' gangs, their social and family structures, way of life, and their distinctive lexicon, published in the 1830s.⁴ Tolen identifies Mullaly's *Note on Criminal Classes of the Madras Presidency* (1892) as the first significant work to focus on Criminal Tribes and Thurston's *Castes and Tribes of Southern India* (1909) as a significant contribution to the administrative literature on the subject.⁵

Also instructive as an example of this style of work is local police officer E. J. Gunthorpe's *Notes on Criminal Tribes...*, which introduces the reader to nineteen tribes in and around the areas of the Bombay Presidency, Berar and The Central Provinces.⁶ The European epistemic drive towards classification and categorisation can be clearly seen in Gunthorpe's division and sub-division of tribes, such as his description of the 'Banjaras':

They are divided into four tribes, viz., "Muttorias," who are Hindoos, and Chuttrees by caste; "Lubhanas," who are Hindoos, and Chuttrees by caste; "Charuns," who are Hindoos, and Rajputs by caste; "Dharees," who are Mahomedans, and are the "bhats" (bards) of the Bunjara tribes. There is also a class called "Dhalias," who are Bunjara Mangs.⁷

³ We recall here not only the 'epistemic foundations' concept, but particularly Hardt and Negri's assertion of the discipline of anthropology as a vital underpinning of European imperialism, see p. 18.

⁴ Sleeman, W H. *Ramaseeana, or a Vocabulary of the Peculiar Language Used by the Thugs...* Calcutta; G H Hartmann, 1836.

⁵ Tolen, 'Colonizing and Transforming the Criminal Tribesman', 108-109.

⁶ Gunthorpe, E. J. *Notes on the Criminal Tribes Residing in Or Frequenting the Bombay Presidency, Berar and the Central Provinces* (1882). Leopold Classic Library (Amazon); UK, 2015. ASIN: B01933KX60.

⁷ Gunthorpe, *Notes on the Criminal Tribes...*, 29.

A further characteristic of work in this vein is the categorisation of tribes' alleged preferences in criminal activity. To take a section of Bhargava⁸, representative of the wider style:

The Karwals are notorious for cattle lifting. They steal goats so stealthily that detection is impossible. They are familiar with the most vulnerable parts of the animal's body, for instance the neck, which they squeeze in such a way that it is not even possible for the victim to bleat.⁹

Compare this with Gunthorpe's assessment of the "inveterate robbers and burglars by profession", the Takenars:

Takenars are the most expert burglars. An entrance made by one of this tribe may readily be recognized by the breach, which is dug sloping gently downwards into the house, the sides being quite straight, not inclining inwards at the end, as in an ordinary burglar's work.¹⁰

Or finally, the later example (in fact, published in the year of the formal abolition of the Criminal Tribes Act, 1952) from K. M. Kapadia:

The Chapperbands are known for petty larceny, though at times they take to counterfeiting coins. The Lamnis kidnap women and children. The Baurias engage only in house burglary and cattle stealing at night. They are expert at wrenching jewellery off the persons of sleeping women.¹¹

Mullaly's work extends into crude biological markers (what we think of now as 'criminal anthropometrics'), describing men of the Yannadi tribe as:

broad about the cheek bones...with a pointed chin, a slight moustache, no whiskers, and a scanty straggling beard over the forepart of the chin¹²

⁸ Bhargava, B. S. *The Criminal Tribes*. Lucknow; Universal Publishers, 1949.

⁹ Bhargava, *The Criminal Tribes*, 30.

¹⁰ Gunthorpe, *Notes on the Criminal Tribes...*, 14.

¹¹ Kapadia, K. M. 'The Criminal Tribes of India', cited in Simhadri, Y. C. *The Ex-Criminal Tribes of India*. New Delhi. National Publishing House, 1979. 16.

¹² Cited in Tolen, 'Colonizing and Transforming the Criminal Tribesman', 112.

Tolen notes similar physical identifiers of inherent criminality in Thurston.¹³ A further example of that contemporary style can be found in Risely's *The People of India*, which argued for evidence of innate criminality and social rank by anthropometric measurements, including the width of the nose.¹⁴ If these themes strike us as reminiscent of the infamous criminal anthropology of Cesare Lombroso, they should – notions of hereditary criminality in British India were explicitly referenced by Lombroso as part of the conceptual support for his own work.¹⁵

In addition to reductive biological markers of crime, the contemporary administrative literature also contained a number of works dedicated to the translation of the various argots of Criminal Tribes.¹⁶ The administrative literature tends to argue that these coded specialist languages were employed by members of tribes to communicate very specific information with efficiency, or to converse with fellow tribesmen discreetly while in the company of others. Bhargava spends a short time discussing the existence of a 'patois' of 'special words and signals' within each of the tribes, and provides a four-page Appendix covering key terms and their variation between the different tribes examined in the book.¹⁷ A similar, albeit smaller, index is offered as an appendix in Gunthorpe.¹⁸ Both authors offer a neat tabulation of key terms cross-referenced by tribes known to use them:

¹³ *Ibid.*

¹⁴ Discussed in Freitag, S. 'Crime and the Social Order of Colonial North India', in *Modern Asian Studies*, Vol 25, No 2 (May 1991), 227-261. 247

¹⁵ Simhadri, *The Ex-Criminal Tribes...*, 10.

¹⁶ There isn't space here, but it is interesting to compare the literature surrounding CT argots to the literature surrounding vagrancy and vagabond's 'cant' in 17th-18th Century England from which it is clearly descended. I presented on this at the Centre for Metropolitan History's December 2017 conference 'Out of Place: Vagrancy and Settlement', 6 December 2017.

¹⁷ Bhargava, *The Criminal Tribes*, 90-91 (discussion) and 136-140 (Appendix)

¹⁸ Gunthorpe, *Notes on the Criminal Tribes...*, 113.

analysis of Abdul Ghafur's dictionary of the terms used by criminal tribes in the Panjab from 1880.¹⁹ Leitner subjects Ghafur's original to critical analysis, comparing existing CT terms to cognate terms in other local languages to confirm or contest the latter's interpretation, and identifying discrepancies that undermine the claims of the original:

Nothing can be more misleading to a police officer on the scene of a crime than to be told that "arí dhándal" is "a crowd of gamblers," and "dhándal arí" "a crowd of constables" two pages further on.²⁰

The work on Criminal Tribes argot should be seen as a direct descendant of Sleeman's *Ramaseena* which catalogued similar specialist terms in use amongst *Thug* gangs earlier in the century. In both cases, the description of esoteric, secret languages clearly reinforces the discourse of exceptional challenge common to the administrative literature on both subjects.

This technocratic and administrative style is maintained in the publications by colonial authorities on the subject of Criminal Tribes. One example being the *Criminal Tribes Administration Manual* from the Punjab²¹ (similar manuals existed in other jurisdictions.)²²

The manual is an operational document for local police forces that laid out the provisions of the existing Criminal Tribes Act alongside lists of currently registered tribes in the area, current settlements in operation across the area, and the additional rules and regulations for the operation of Reformatory Settlements for Criminal Tribes.

Another distinctive feature of many primary source works is a focus upon the religious beliefs and ritual activity of Criminal Tribes. No doubt a good deal of this fascination can be traced to

¹⁹ Leitner, G. W. *A detailed analysis of Abdul Ghafur's dictionary of the terms used by criminal tribes in the Panjab*. Lahore; Panjab Govt. Civil Secretariat Press, 1880.

²⁰ Leitner, *A detailed analysis...*, 1-2.

²¹ Author Unknown. *The Criminal Tribes Administration Manual (Punjab) Part 1*. Lahore; Superintendent Governor Printing, 1919.

²² See, Author Unknown. *Criminal Tribes Manual* (Calcutta). Calcutta; Bengal Secretariat Book Depot, 1930; Ghani, M. A. *Notes on the Criminal Tribes of the Madras Presidency*. Provincial Police Training School; Vellore, 1915; and Daly, F. C. *Manual of Criminal Classes Operating in Bengal*. Calcutta; Bengal Secretariat Press, 1916.

Sleeman's sensational treatment of *Thuggee* as a religiously-motivated murder cult, which had caught the 'orientalist' imagination of popular writers on India. Sleeman's *Thuggee* work created a powerful archetype of exceptional forms of colonial criminality that conditioned subsequent interpretations and responses to apparently similar phenomena.²³ We can see this in Bhargava, whose sixth chapter is dedicated to the 'Religious Beliefs, Omens and Ordeals' of the Criminal Tribes he studies,²⁴ explaining:

For a member of the criminal tribes, crime is his hereditary calling. He has an ethical sense which justifies his action and finds full expression in the social structure and religious life of the tribe to which he belongs. His social customs and religious beliefs are perfectly in-keeping with his criminal career. Therefore, in order to understand him fully, it is essential to probe deep into his social and religious life...²⁵

Over the course of his chapter, Bhargava lists the deities and spirits to which tribes pray for protection, the omens they use to determine whether a planned action is auspicious or should be abandoned, and the oaths and 'ordeals' used to bind members to common cause and establish their guilt or innocence when accused of breaking tribal conventions. Again, this is exactly the kind of discourse that enables the administrative literature to frame the challenge of the Criminal Tribes as totally exceptional – of a different order and bearing to anything encountered before.

The final characteristic to note amongst the works of 'administrative' or contemporary literature is the language of punishment and redemption. The language of punishment includes examples of the dehumanisation of Criminal Tribes, such as Sir Richard Temple's equation of Criminal Tribesmen with locusts:

²³ Typical of the genre, and widely cited in CT scholarly literature, is Hatch, W. J., *The Land Pirates of India*, London; Seeley & Co., 1928.

²⁴ Bhargava, *The Criminal Tribes*, 65-71.

²⁵ Bhargava, *The Criminal Tribes*, 65.

They wander about, and settle down like a small flight of locusts, on any piece of land that might be available; and the neighbours soon find their property slipping away from the bit by bit.²⁶

He is joined by Mullaly, whose fixation on the appearance (“dirty, unkempt looking objects”) and eating habits (“every description of animal food”) of members of Criminal Tribes ‘not only offended the standards of British administrators, but also were...considered defiling by the elites from whom the administration obtained much of their information.’²⁷

The demeaning and retributive tenor of these and similar works is not reflected in the body of Salvation Army literature that built as the organisation took an increasingly significant role in the administration of Criminal Tribes settlements throughout India in the early twentieth century. The Salvation Army material generally has a predictably paternalistic tone that prefers to characterise most, if not all, members of Criminal Tribes as wayward and childlike, and in which the ‘redemption’ and ‘reformation’ are the ultimate aims of Army intervention. Commissioner Frederick Booth-Tucker (Head of the Salvation Army in India) roundly rejects the government’s preference for ‘ordinary prison methods’ in their attempts to manage the Criminal Tribes.²⁸ Brigadier Arthur Hughes, who established a CT settlement on the Andaman Islands, also condemned the ‘merely vindictive’ system of traditional prisons in favour of a model of ‘schools of discipline providing education and correction’.²⁹

In the context of this thesis, one fascinating aspect of the Salvation Army approach is the heavy emphasis on the inter-generational moulding of new ways of life. We often see younger members of the Tribes as bearing the greatest potential for reform, but juxtaposed against

²⁶ Temple, R. *India in 1880* (3rd ed.). London; John Murray, 1881. 200.

²⁷ Tolen, ‘Colonizing and Transforming the Criminal Tribesman’, 112.

²⁸ Booth-Tucker, F. ‘The Criminal Tribes of India’, in *Social Problems in Solution*. St Albans; Campfield Press, 1923. 126-134. 131.

²⁹ Hughes, A. Typescript: *Life Among Lifers*. (c. 1934-1940). Salvation Army International Heritage Centre Archive. IN/2/1. 8.

the malevolent figures of the older generations who keep the younger wedded to the elders' criminal ways. For example, in Hughes:

In spite of the old folks clinging to the ancient and backward practices, the change since I remember first seeing [the Bhantus] in 1921 has been prodigious. *The second and third generations are arising, and unlike the older people are educated. The young are susceptible to new ideas.*³⁰

Following Hughes, I will refer to this as the 'rising generation' approach throughout this case study. The clear inter-generational perspective of the Salvation Army's agenda is also acknowledged by Commissioner Booth-Tucker himself, when he celebrates the work his organisation has spearheaded of not only reforming individuals, but preparing those individuals to carry the reform agenda into the hearts of their communities – the reconstitution of a way of life from the inside:

There are more than a million people needing our rescuing hand of help. And, what is more important, *we have trained men and women from the Tribes themselves, who can now become the saviours and leaders of their own nations...*³¹

Secondary Literature - context

One point to bear in mind throughout what follows is that the sources examined here are not setting out to address the central question with which this case study is concerned. Many of these studies set out to answer the historical *why* of the Criminal Tribes system; why it came into existence, why certain groups and not others were targeted, and so on. A smaller number concern themselves with the mechanics of *how*; how the tribes in question were targeted, how they were treated, how life in the settlements was experienced, and so forth. My

³⁰ Hughes, 'Life Among Lifers', 21-22. Emphasis added.

³¹ Booth-Tucker, 'The Criminal Tribes of India', 133. Emphasis added.

question in this thesis reaches for something one step removed from these traditional historical enquiries. I am looking for, if you will, the *why of the how*; why were certain tools and approaches favoured by authorities in their design of the Criminal Tribes system, why notions of hereditary criminality, movement restrictions, controlled and exceptional spaces, formed the toolkit of the imperial response to the perceived ‘problem’ or challenge of the Criminal Tribes. It is in respect to this question that I will assess the utility of biopolitics in general (the ‘common core’), and most importantly, of Agamben’s biopolitics in particular, as frameworks that can throw new light on the design, operation, and development of the Criminal Tribes system.

3.1.2 Secondary literature – ‘Ideological’ theme

Sanjay Nigam opens Part One of his two-part Criminal Tribes essay *Disciplining and policing the ‘criminals by birth’*³² with Said’s *Orientalism* and an argument for its continuing relevance to contemporary studies of the Middle East and India. Nigam pushes back against what he sees as the fashionable tendency to reduce Said’s work to “a third world talisman” and sets out to use both Said and Ronald Inden (who applied Said’s concept of orientalism specifically to India) in his own analysis of the development of the surveillance and disciplinary systems which formed the Criminal Tribes approach.³³

The essentialisation of western presuppositions of race, and the assumption of European racial supremacy, *sine qua non* of the orientalist approach, appears in Nigam’s critique of the Criminal Tribes system at the moment the ‘attributes’ of the *thugs* become assigned *tout court* to communities across northern India:

³² Nigam, S. ‘Disciplining and policing the ‘criminals by birth’, Part 1: The making of a colonial stereotype – The criminal tribes and castes of North India’, in *The Indian Economic and Social History Review*, 27, 2 (1990). 131-164.

³³ Nigam, ‘Disciplining and Policing...Part 1’, 132-133.

Once a parallel was drawn with the thugs, the criminality of these tribes and castes was taken as axiomatic; only the measures for controlling them needed to be worked out in detail.³⁴

The result being that the edifice of the Criminal Tribes system was erected over those communities on the basis of an erroneous and fundamentally alien colonial knowledge:

Thus the *a priori* orientalist assumptions – of religion, caste, fanaticism, deception and cruelty – produced definitions that could be redeployed to prove the original belief [of inherent criminality].³⁵

A similar analysis is present in Mark Brown's description of the British drive to make the concept of "character" the linchpin of the colonial legal structure.³⁶ As he goes on to explain, the objective of British policy was to create an ideal subject:

The modern native subject of British colonial power was to be settled, was to be obedient to law, to develop skills of agricultural (and later industrial) production, to subscribe to or at least accept modern norms of hygiene and sanitation, dress and comportment, thrift and prudence, and so on.³⁷

Those tribes who refused to conform to this ideological ideal of the transformed Indian subject were targeted for exclusion and punitive disciplinary measures, such as the Criminal Tribes Acts and settlements system.³⁸ Brown's description of the ideal Indian subject is the negative image of existing orientalist stereotypes of Indian communities pre-Empire. The 'after' picture that tells us all we need to know about the British rulers' conception of these communities 'before'.

³⁴ Nigam, 'Disciplining and Policing...Part1', 134.

³⁵ Nigam, 'Disciplining and Policing...Part 1', 136.

³⁶ Brown, M. 'Colonial histories and theories of the present', in Godfrey, B and Dunstall, G. (eds), *Crime and Empire 1840-1940*. Cullompton; Willan, 2005. 86.

³⁷ Brown, 'Colonial histories...', 87.

³⁸ *Ibid.*

The common ground of an 'ideological' and orientalist epistemology in Nigam and Brown requires reference to Bernard Cohn's *Colonialism and Its Forms of Knowledge*.³⁹ Of particular interest here is Cohn's concept of 'The Surveillance Modality', which describes the drive of the British authorities to identify "the groups and categories of people whose practices threatened the sociological order".⁴⁰ Cohn continues:

These were people who appeared by their nature to wander beyond the boundaries of settled civil society[...]. The British constructed special instrumentalities to control those defined as beyond civil bounds, and carried out special investigations to provide the criteria by which whole groups would be stigmatized as criminal.⁴¹

The concern with identifying and controlling groups that did not fit within the idealised social order of British India was carried out on the basis of the modern European 'scientific method' – through surveying, classification, and categorisation. In addition, Cohn links the use of photographs, fingerprints, and anthropometric measurements to similar developments in European police forces, who were also primarily engaged in the identification of individual and groups that posed an apparent threat to the settled social order.⁴² All of this, of course, is of a piece with the concept of the 'epistemic foundations' of biopolitics functioning as a means toward 'conquest by knowledge production'.⁴³

In Cohn's analysis, as with Nigam and Brown, the developments of collective criminalisation, surveillance, and control, are constituent parts of the ideological imposition of British knowledge – knowledge of the 'correct' social order, knowledge of the 'ideal' subject,

³⁹ Cohn, B. *Colonialism and Its Forms of Knowledge*. Princeton; Princeton University Press, 1996.

⁴⁰ Cohn, *Colonialism and its forms of knowledge*, 10.

⁴¹ *Ibid.*

⁴² Cohn, *Colonialism and its forms of knowledge*, 11.

⁴³ See, in particular, pp. 266-268.

knowledge of the science of racial difference, the unchanging and determining nature of caste, and the appropriate forms of co-option and control.

These accounts all share common ground in identifying a perception of the exceptional conditions of British India, underwriting the design of the authorities' responses, and 'ideological' insofar as they remain centred on what we recognise as 'epistemic imperialism' – that ideas were transported wholesale from the domestic and European context and imposed upon the Indian.

3.1.3 Secondary literature – 'Institutional' theme

In distinction to the 'ideological' application of orientalism described above, some authors offer pragmatic, 'institutional' arguments for the development of the Criminal Tribes system in India, whilst remaining committed to grounding them in the context of a response to unique, or at the very least highly distinctive, Indian conditions.

Elizabeth Kolsky argues that transplanted ideas such as the rule of law were significantly modified in their application within India as a result of "political exigencies" generated by India's specific circumstances.⁴⁴ The Thuggee Act and Criminal Tribes Acts are two prime examples of such modification, allowing colonial subjects to be defined legally and criminalised by membership of "cultural and religious collectivities predisposed to commit certain crimes."⁴⁵ Further, these different legal categories enabled the use of different coercive and disciplinary powers, including some that were not legally permissible under the established criminal codes.⁴⁶

⁴⁴ Kolsky, E. 'The Colonial Rule of Law and the Legal Regime of Exception', in *American Historical Review*, Vol 120, No 4 (October 2015). 1230.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

Rather than an epistemic question of knowledge, or the suitability of Indian subjects for membership of an idealised British colonial society, Kolsky's account locates the developments that led to the Criminal Tribes Acts in the reflexive response of colonial administrations to contingencies 'on the ground'.

Similarly reflexive is Piliavsky's account of the development of the British response to 'extraordinary crime' in her essay *The Moghia Menace*.⁴⁷ The Moghias were a tribe located in Rajputana and Central India accused of systematic criminal offences in the 1860s, and the measures taken against them by the British authorities constituted one of the immediate precursors (along with the Punjab Regulations of 1856) to the original Criminal Tribes legislation.⁴⁸ Piliavsky's account sketches the anti-Moghia measures in their historical context of pre-colonial and early colonial policing systems. Criminal Tribes legislation, for Piliavsky, stems from the British response to the 1857 rebellion and is "intrinsically bound up with the formulation of the colonial police, an institution pivotal to the establishment and extension of colonial governance on the subcontinent".⁴⁹

As with Kolsky, the development of Criminal Tribes, and similar, legislation is presented as historically contingent, rather than ideologically determined. Both are also firmly institutionally rooted, Kolsky in the modification of the British-Indian legal framework and Piliavsky in the evolution of colonial policing in India.

A further voice that links Criminal Tribes legislation to the development of policing is Rajnaryan Chandavarkar, in his *Imperial Power and Popular Politics*.⁵⁰ Rather than the

⁴⁷ Piliavsky, A. 'The Moghia Menace...', in *Modern Asian Studies*, 47, 3 (May 2013). 751-779.

⁴⁸ Piliavsky, 'The Moghia Menace...', 752.

⁴⁹ Piliavsky, 'The Moghia Menace...', 755.

⁵⁰ Chandavarkar, R. *Imperial Power and Popular Politics: Class, Resistance and the State in India c.1850-1910*. Cambridge; Cambridge University Press, 1998.

institutional shape and operating methods of the police, as per Piliavsky, Chandavarkar argues that Criminal Tribes legislation was primarily a strategy designed to enable the effective policing of a land so vastly different, and in which law enforcement officers are so vastly outnumbered, relative to the original domestic context of the police.⁵¹

Finally, Sandria Freitag's *Crime in the Social Order of Colonial North India*, places the Criminal Tribes legislation in the wider context of the development and co-option of native elites.⁵² Freitag argues that the Indian legal framework under the British was, from the start, based primarily upon land revenues, and reflected a partnership (albeit an unequal one) between British authorities and traditional Indian land-owning classes.⁵³ This 'conservative agrarian elite', whose character had been somewhat modified by British 'domestication' efforts, formed the core of the emergent social order in India.⁵⁴ One consequence of creating legal and institutional structures that reflected this distinctive 'amalgam of sedentary South Asian values and British priorities' was the marginalisation and exclusion of groups and communities whose way of life conflicted with the normative standards of the new social order.⁵⁵

For Freitag, the Criminal Tribes Act marks a culmination of this process of marginalisation. In her account, the familiar 'epistemic foundations' of criminal anthropology, ethnography, and statistical demography that facilitated the identification and exclusion of Criminal Tribes were made all the more effective because it was used to target those social groups and communities already marginalised as a result of imperial co-option of native elites and the

⁵¹ Chandavarkar, *Imperial Power and Popular Politics*, 228-229.

⁵² Freitag, S. 'Crime in the Social Order of Colonial North India', in *Modern Asian Studies*, Vol. 25, No. 2 (May 1991). 227-261.

⁵³ Freitag, 'Crime in the Social Order...', 229.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

side-lining of those who did not fit in.⁵⁶ In this way, Freitag explicitly combines the ‘ideological’ and ‘institutional’ lines of thought discussed here – a European ideological and epistemological superstructure founded upon the contingent institutional requirements of consolidating India’s colonial state.

3.1.4 Secondary literature – ‘Sociological’ theme

The more ‘sociological’ analyses of the Criminal Tribes system are characterised by their environmental, cultural, and anthropological emphases. For example, in his *Facets of Crime in India* (1962), S Venugopala Rao looks to the social and familial conditions of groups known to practice inter-generational and communal crime:

While some effect of inheritance cannot be entirely ruled out, the generations of these criminals are merely creatures of the environment which surrounds them from their birth...⁵⁷

In his summary of the sociological account of Criminal Tribes, Y C Simhadri cites the work of Cavan and Cavan, and Johnson, in tracing the way in which culture change (as the new colonial culture was superimposed onto traditional cultures) became a key source of criminal behaviour.⁵⁸ The precise mechanism, for the Cavans and Johnson, being the tension between tribal life and wider Indian society – a tension that resulted in conflict, expressed in the form of crime.

There is a similar theme in Clarence Patrick, who uses the Durkheimian concept of anomie and social frustrations as determining factors in Criminal Tribes activity.⁵⁹ As with Cavan and Cavan, and Johnson, it is the gap between culturally-accepted “success goals” of the new

⁵⁶ Freitag, ‘Crime in the Social Order...’, 244-245.

⁵⁷ Venugopala Rao, *S. Facets of Crime in India* (2nd ed.). Bombay; Allied Publishers, 1967. 25.

⁵⁸ Simhadri, *The Ex-Criminal Tribes...*, 15.

⁵⁹ Patrick, C. H. ‘Criminal Tribes of India with Special Emphasis on Mang Garudi – Preliminary Report’, in *Man in India*, Vol. 48, Issue 3 (1968). 244-257. 247. See also; Simhadri, *The Ex-Criminal Tribes...*, 13-14.

order and the exclusion of marginalised communities from the institutional means by which these goals can be achieved, that sparks the anomic response of criminal deviance.⁶⁰

Although small, and seemingly concentrated chronologically to a period from the early 1960s to the late 1970s, these works share sociologically-grounded accounts of the determining effects of environment in producing criminal behaviour among marginalised tribes. By bringing concepts such as anomie, social frustration, and criminal socialisation to the centre of their work, these authors also make the Criminal Tribes phenomenon more directly comparable to other times and places where similar conditions can be argued to have been present.

3.1.5 Secondary literature: 'Economic' theme

K M Kapadia's study *The Criminal Tribes of India* acknowledges the transition away from the biological reductionism of the original Criminal Tribes discourse (present in the 'administrative literature' with which we opened this section) towards social and environmental accounts of the presence of criminal behaviour in some communities.⁶¹ However, the study steps beyond the horizon of the 'sociological' accounts described above, by making a forceful statement about the economic 'bottom line' of criminal motivation:

Their methods and disguises also indicate that their main purpose is to secure some money. They are neither free-booters nor murderers: they are not known to have indulged in sex crimes. Economic crimes are more often undertaken when the existing social system or economic organisation makes it difficult for a section of the society to continue its existence.⁶²

⁶⁰ Simhadri, *Ibid.*

⁶¹ Kapadia, K. M. 'The Criminal Tribes of India', in *Sociological Bulletin*, Vol 1., No. 2 (1952). 99-125. 110.

⁶² Kapadia, 'The Criminal Tribes of India', 113.

This line of thinking neatly marks a threshold between the primacy of ‘sociological’ factors (the gap between success in the social system and the means available through a particular way of life) and specifically ‘economic’ accounts of Criminal Tribe behaviour.

Other theorists go further, and seek an economic account of the original ‘creation’ of Criminal Tribes in the economic and technological dislocations that accompanied the expansion of the British into India, particularly from the late eighteenth century. For example, the anthropologist Stephen Fuchs in his *The Aboriginal Tribes of India*.⁶³ Fuchs’ analysis of “Nomadic tribes in the plains of Northern India” opens with a distinction between traditionally nomadic, mainly foraging, tribes, and those whose choice of occupation led their group to vagrancy.⁶⁴ He also further separates and distinguishes those tribes that were labelled Criminal Tribes, and offers an account of their origin in the British pacification of Northern India. The account argues that tribes found themselves “uprooted” during the many wars in the region during the early nineteenth century; individuals who lost their way of life, either as uprooted farmers or as former soldiers for now-defeated and disarmed local leaders, turned to crime as the only way to make a living in the new state of affairs.⁶⁵

In one example, Fuchs cites the Lodhas as a former forest-dwelling tribe whose main living was made by food gathering. However, with their native forests increasingly cleared to make way for grain cultivation (carried out by different caste groups), and other forests made private property, the Lodhas gained the reputation of a Criminal Tribe.⁶⁶ The hunting and food-gathering way of life that had sustained the Lodhas became increasingly untenable as the new British ideal of sedentary agricultural cultivation and enclosures of common ground

⁶³ Fuchs, S. *The Aboriginal Tribes of India*. London; MacMillan, 1977.

⁶⁴ Fuchs, ‘The Aboriginal Tribes...’, 105.

⁶⁵ Fuchs, ‘The Aboriginal Tribes...’, 106.

⁶⁶ Fuchs, ‘The Aboriginal Tribes...’, 110.

(in this case, jungle) into private property slowly removed the space in which the traditional way of life could be practised.

In addition to his work on the creation of 'idealised' subjects of British colonialism, Mark Brown identifies economic dislocation as central to the origins of criminal activity amongst some Indian tribes in a paper for *Theoretical Criminology*.⁶⁷ Brown argues that, in the wake of modern British technology and economic production expanding across India, "the traditional economy and those who clung to it were pushed increasingly to the margins of society."⁶⁸ He notes the unemployment not only of fighters previously in the service of local rulers, but also that many other crafts and industries that supported local military capacities also became obsolete and left their previous workers unemployed.⁶⁹

Brown also makes an important point about the Criminal Tribes system, particularly its settlements. Whilst acknowledging the architecture of the Criminal Tribes system as part of a response to the perceived threat to social order posed by nomadic and recently-unemployed wandering tribes, he notes that the measures the system entailed were not of a traditionally punitive nature and that settlements in particular served a wider economic purpose:

...the goal of such colonies was promotion of alternative economic skills – notably settled agriculture – and in many cases 'reform' was rewarded with allocation of land and release from the grip of colonial surveillance and control.⁷⁰

Brown's article gives an outline of an 'economic' account of the origins of criminal behaviour in many tribes as a rational, if desperate, response to unemployment, and also the outlines

⁶⁷ Brown, M. 'Race, science and the construction of native criminality in colonial India', in *Theoretical Criminology*, Vol. 5, 3 (2001). 345-368.

⁶⁸ Brown, 'Race, science...', 362.

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

of the wider economic rationale of the settlements system, moving beyond traditional forms of punishment and into a disciplinary system of significantly greater ambition.

The economic condition and opportunities of tribal groups under the impact of British colonialism, and crime as a rational economic response to these conditions, has been comprehensively treated by David Arnold.⁷¹ In his article *Dacoity and Crime in Rural Madras*,⁷² Arnold describes how the Lambadi tribe, made their living transporting goods, particularly salt, between parts of northern India.⁷³ As the Lambadi found themselves “pushed aside” by the railroad and other competition, Arnold traces their move into dacoity as a response both to the loss of the salt and caravan trades, and the subsequent loss of subsistence pasture after drought.⁷⁴ A similar fate befell the Kuravars, another tribe closely associated with the salt trade in the early nineteenth century, and a registered Criminal Tribe in the early twentieth.⁷⁵ Bhangya Bhukya’s study *Delinquent Subjects*⁷⁶ looks at the development of anti-dacoity legislation in nineteenth century Hyderabad, with particular reference to the experience of the Lambada tribe.⁷⁷ Bhukya offers a similar account to Arnold of the transition of the Lambada from a traditional, established way of life towards collective criminal enterprise in similar terms to Brown and Fuchs. With the traditional livelihood of the Lambada, caravan trading, rendered increasingly obsolete as the British Empire (and its railroads) expanded

⁷¹ In addition to the article we have chosen to cite, he has authored the authoritative *Police Power and Colonial Rule in Rural Madras, 1859-1947*. Delhi ; Oxford : Oxford University Press, 1986.

⁷² Arnold, D. ‘Dacoity and Rural Crime in Madras, 1860-1940’, in *The Journal of Peasant Studies*, 6:2 (1979). 140-167.

⁷³ Arnold, ‘Dacoity and Rural Crime...’, 151.

⁷⁴ Arnold, ‘Dacoity and Rural Crime...’, 151-152.

⁷⁵ Arnold, ‘Dacoity and Rural Crime...’, 152.

⁷⁶ Bhukya, B. “Delinquent Subjects’: Dacoity and the creation of a surveillance society in Hyderabad State’, in *The Indian Economic and Social History Review*. 44, 2 (2007). 179-212.

⁷⁷ ‘Lambada’ is interchangeable with ‘Lambadi’ and is the same tribe that concerned Arnold’s study, *supra*.

across the subcontinent, Bhukya acknowledges the Lambada movement “[t]oward dacoity” as a response to severe impoverishment.⁷⁸

Bhukya goes on to mention the transposition of Eric Hobsbawm’s model of ‘social banditry’ onto the phenomenon of dacoity in India.⁷⁹ He does not, however, support this thesis, citing Arnold’s objection to the inference as obscuring the role of colonial sociology and British conceptions of caste in the construction of Criminal Tribes.⁸⁰ Bhukya further distances himself from the Hobsbawm-inspired analyses of Indian banditry with the observation that, for Hobsbawm, banditry was a “primitive form of rebellion”, whilst dacoity and other criminal activity by dispossessed, dislocated, and otherwise unemployed tribes in India is a modern, economic response to the modern, economic phenomenon of colonialism.⁸¹ In both his account of the development of the Lambada into a Criminal Tribe, and his encounter and dismissal of the transfer of Hobsbawm’s social model of banditry into the Indian context, Bhukya makes thorough ‘economic’ analyses of his subject.

An extensive treatment of the causes and consequences of economic dislocation in the case of the Koravars⁸² can be found in Meena Radhakrishna’s *Dishonoured By History*.⁸³ Radhakrishna is emphatic in asserting that “[c]olonial economic policies in the nineteenth century destroyed the occupations of a number of communities.”⁸⁴ She gives us an idea of the real complexity of the economic phenomena that deprived the Koravars of their traditional livelihood in the salt trade, tracing changes in salt production policy (post-1805,

⁷⁸ Bhukya, ‘Delinquent Subjects’, 187.

⁷⁹ Bhukya, ‘Delinquent Subjects’, 188.; Arnold ‘Dacoity and Rural Crime...’, 140-141.

⁸⁰ *Ibid.* The British construction and (mis)application of the concept of caste is discussed in more detail later in Chapter Four, see pp. 268-271.

⁸¹ Bhukya, *Ibid.*

⁸² Again, interchangeable with the ‘Kuravars’ of Arnold’s analysis.

⁸³ Radhakrishna, M. *Dishonoured By History: ‘Criminal Tribes’ and British Colonial Policy* (revised ed.). New Delhi; Orient Blackswan, 2008.

⁸⁴ Radhakrishna, *Dishonoured By History*, 31.

salt manufacturers were forced to sell salt to the government, which then sold on to traders), the increasing concentration of large-scale salt trading companies facilitated by the expansion of the rail network, and finally the move (in 1876) to large-scale private industrial production of salt.⁸⁵ Each of these developments forced prices higher and consumption down, with the final two also squeezing smaller salt-trading communities like the Koravars out of the salt trade entirely.⁸⁶ The end result, for Radhakrishna, was unemployment, and criminalisation:

There is no doubt that the official perception of these communities was changing as a result of the fact that they had lost their traditional means of livelihood. [The Koravars] had outgrown their usefulness as salt and grain carriers with the spread of a network of roads and railways. Around the last quarter of the nineteenth century, the increasing rate of unexplained and uncontrolled 'crime against property' in the countryside induced the administration to adopt the concept of the hereditary criminal.⁸⁷

Whilst heredity remained the explanation of choice for ongoing rural crime in the late nineteenth century, Radhakrishna notes elsewhere that the British authorities had come to openly recognise the effects of economic dislocation on traditional trading communities by the first quarter of the twentieth century.⁸⁸ The limits of this recognition were clear, however, insofar as they were used as an economic rationale for the criminal activity of entire communities, who were considered no less guilty and no better treated as a result of this recognition than they had been under the original accounts of hereditary criminality.⁸⁹

To recap, I have sought to introduce the topic of the 'Criminal Tribes' system of British India through a discussion of prominent primary and secondary historical sources, seeking to

⁸⁵ Radhakrishna, *Dishonoured By History*, 31-33.

⁸⁶ *Ibid.*

⁸⁷ Radhakrishna, *Dishonoured By History*, 34.

⁸⁸ Radhakrishna, M. 'The Criminal Tribes Act in Madras Presidency: Implications for itinerant trading communities', in *The Indian Economic and Social History Review*, 26, 3 (1989). 269-295. 275.

⁸⁹ *Ibid.*

identify common themes in order to better contextualise the detailed historical case study to come.

In relation to the 'administrative literature', I identified its convergence around two central points, the acceptance of the concept of innate criminality amongst some tribes in India, and the exceptional nature of the challenge that this phenomenon presents to the colonial legal and political order. There is also the common attempt to embrace the phenomenon through the nineteenth-century European epistemic framework of the 'scientific method': in the forms of categorisations classifications of castes, tribes, and sub-tribes; in the work on building dictionaries and lexicons to exhaustively list and translate Criminal Tribe argot; in the use of contemporaneous approaches such as criminal anthropology, Social Darwinism, and biological determinism to identify and understand Criminal Tribes; and in the use of systems of physical confinement to effect both punishment and rehabilitation (whether the traditional penal system, or the 'reclamation' approach of Salvation Army Reformatory Settlements). This point will be returned to in Chapter Four, as one aspect of the CT system that appears to reflect the concept of 'epistemic foundations', or 'conquest by knowledge production' that I have argued forms a staple element of analysis in the 'common core' of biopolitics.

Turning to the secondary literature, I sought to bring out the common themes of scholarly enquiry into the beginnings and underpinnings of the Criminal Tribes system by grouping commentaries into four broad thematic groups. In the 'ideological' accounts of Nigam, Brown, and Cohn, the primary motivating force for these developments is the blunt imposition of British intellectual and epistemic concepts; alien forms of 'knowledge' that simultaneously created standards for 'ideal' colonial subjects, and the disciplinary mechanisms to force whole communities into conformity with them.

The 'institutional' accounts of Kolsky, Piliavsky, Chandavarkar, and Freitag, share a distinctive emphasis on the more mundane practicalities of establishing a functioning colonial state. In linking the development of the legal system and Criminal Tribes legislation to the prosaic political realities of co-opting local elites, building a functioning police force, responding to 'political exigency', and so on, they provide accounts that are reflexive – allowing more room for responses 'on the ground' to feed back in to the evolution of the structures they seek to analyse.

The accounts that I have described as 'sociological', offer social, cultural, and anthropological examinations of community life and the adaptation of groups to changing circumstances. Vengupala Rao offers an account that bases much criminal behaviour on passive environment and socialisation practices within tribes; Simhadri outlines the works of both Cavan and Cavan, and Johnson, who traced social deviance, expressed as crime, to the tensions inherent in the superimposition of colonial culture and its new set of normative ideals over an existing, and often very different, pre-colonial culture; and finally, Patrick uses the Durkheimian concept of anomie to explain criminality as a measure of frustration expressed when 'success goals' valorised by the new colonial culture remained impossible for certain communities and individuals to attain.

Whilst the idea of community response remains the same as in 'sociological' accounts, the circumstances that provoke the response are sketched differently by those authors who use an 'economic' perspective in their work. These writers offered accounts of economic dislocation brought on, in one form or another, and with varying degrees of intentionality, by the expansion of British power and British models of economic production across the subcontinent, as the main agent of social change, and collective unemployment as its main

consequence. Engaging in criminal activity is seen a rational response, yet still one rooted in desperation, for groups whose traditional ways of life have been destroyed. Kapadia parts the veil of hereditary criminality to reveal communities engaged in a brutal struggle for subsistence, who simply need to make money to eat; Fuchs find jungle-dwelling tribes reduced to starvation by changes to agricultural production and land ownership turning to crime; Brown's account supported the idea of technological unemployment as a central explanatory factor, while also giving us a useful insight into the wider economic rationale behind the settlements system; finally, Arnold, Bhukya, and Radhakrishna all give detailed accounts of the precise mechanics of the way in which changes to the salt trade shattered a livelihood that had sustained a number of tribes for generations.

Ultimately, the full understanding of the phenomenon of the Criminal Tribes concept and the remarkable disciplinary system it created is located within and between all of the accounts offered here. It has not been my intention to make exclusive category claims or comparative judgements on the use or value of one writer over another, or one line of thought over another. Indeed, as Mark Brown's appearance in two of the above categories shows, the elements within this schema are not necessarily mutually exclusive but, in many cases, will overlap. Rather than a zero-sum game, what I have demonstrated in the works discussed here are primarily differences in emphasis, and in the balance in their analyses of multivariate and distinct aspects of a complex whole.

While this thesis will ultimately seek to make a similar contribution to this whole, it is also worth recalling that it will not do so, as the above writers have, by seeking to find the 'why' of what happened, or the 'how' of its chain of events. To demonstrate the utility of Agamben's biopolitics in accounting for the 'why of the how', the identification and contextualisation of

the ‘toolkit’ of the British response to the perceived challenge of the Criminal Tribes, remains our principal aim. To achieve this aim, the rest of this chapter will turn to an analysis of the historical development, objectives, and methods of Criminal Tribes system.

3.2 Legal Developments and Precursors, 1772-1871

The Criminal Tribes Act (CTA) did not develop *ex nihilo*. As with all pieces of legislation, it emerged from a complex of specific social, political, and cultural circumstances, existing legal and legislative precedents, and the general epistemological demands/conditions of its time and place.

The quickest way to gain an outline of the CTA is to examine it in motion; that is, to view the sequence of legislative precedents that successively innovated and refined the distinctive features of the CTA prior to their eventual crystallisation into Criminal Tribes legislation:

- community culpability and collective punishment
- lower evidence thresholds
- diachronic/inter-generational guilt (hereditary; and later, habitual)
- guilt in *esse* not *operari* (guilt derived from *who* you are, not *what* you do)⁹⁰
- movement/travel restrictions (indicating an increasing emphasis on control of space)
- ‘reclamation’, not retribution, as desired outcome of intervention

This section will show how these distinctive components of the Criminal Tribes Acts came together over the century before the passage of the Act, beginning with the East India Company’s response to ‘extraordinary’ crime, building through the colonial construction of and encounter with *Thuggee*, before taking something close to its recognisable form in the

⁹⁰ This distinction has been drawn from Schmitt’s *Uber Schuld*, via Agamben. See, Agamben, G. *Homo Sacer: Sovereign Power and Bare Life* (Stanford, CA; Stanford University Press, 1998.) 28.

measures adopted to contain and manage three particularly challenging tribes in the Punjab in the later 1850s.

I will show an organic development of colonial response, as each new action builds upon previous measures but adding new elements, until the eventual configuration of the Criminal Tribes Act is reached. This section will then lead us into a more detailed examination of, and reflections on, the acts of legislation that brought the Criminal Tribes response into being and up the point of its systematisation between the years of 1871 and 1911.

3.2.1 Company Era: Article 35 of 1772

1772 was the year that William Hastings first became Governor-General of territories under the control of the East India Company. In the same year, Hastings promulgated Article 35 of 1772, a measure to deter and if possible destroy the practice of dacoity – a particularly well-organised and often violent form of highway robbery common in India at the time. Hastings determined that legislation designed specifically to tackle dacoity was essential given the exceptional nature of the offence, ‘not at all like the robbers in England’.⁹¹

The distinction between ‘ordinary’ crime in India and extra-ordinary offences (requiring, by their nature, extraordinary responses) remained a key part of the law enforcement discourse throughout the nineteenth and early twentieth centuries, notably in the outcry and response over *Thuggee*, and played a determining role in the fashioning of the Criminal Tribes concept and approach. Mark Brown builds on the work of Sandria Freitag in identifying the ‘corporate nature of these crimes’ as the principal concern of British authorities – the fact that such collective endeavour cannot but contain within it the political potential for wider rebellion

⁹¹ Cited in Brown, M. *Penal Power and Colonial Rule*. Abingdon; Routledge, 2014. 46.

against a colonial state still very much in formation.⁹² This is the political context that backgrounds the Company's early anti-dacoit legislation known as Article 35 of 1772.

The innovations of Article 35 have been laid out by Radhika Singha in her study of 'crime and justice in early colonial India':

"[Warren Hastings] ...formulated Article 35 of 1772, which extended punishment for dacoity from the individual offender to his family and village. Hastings had also argued that conviction under Article 35 should be allowed on the grounds of public notoriety for dacoity. Professional crime had to be punished by different standards of evidence from those applied to offenders charged for a single crime."⁹³

Any individual convicted of dacoity under the Article was taken back to their home village and executed in front of their family and neighbours as a strong deterrent to others; the village itself was subject to a collective fine for the dacoit's transgression, and the immediate family of the executed individual were to be made 'slaves of the state', to be 'disposed of' (i.e. deployed to work) according to the discretion of the authorities.⁹⁴

In reality, the Article was rarely enforced to its full extent,⁹⁵ but it set a legislative precedent that included a significant number of the characteristics that would go on to become typical of the Criminal Tribes approach. It identified a form of collectively-practised crime as extraordinary and in need of an exceptional response from law enforcement authorities; it innovated the culpability of the village for the acts of individuals and enforced collective punishments on both the community and immediate family of the offender; it established a

⁹² *Ibid.*

⁹³ Singha, R. *A Despotism of Law: Crime and justice in early colonial India*. New Delhi; Oxford University Press, 1998. 169.

⁹⁴ Singha, *A Despotism of Law*, 27-28.

⁹⁵ Singha, *A Despotism of Law*, 27-28 (fn. 112).

lower evidence threshold for conviction – accepting mere ‘public notoriety’ as evidence enough to obtain a conviction and trigger punishment under Article 35.

Some elements of the Criminal Tribes approach are not apparent in Article 35. Whilst collective liability is established, there is not yet the imposition of hereditary criminality as an organising principle; the public notoriety provisions are not quite enough to argue for a transition from guilt by *operari* to guilt in *esse* – the conviction is still centred upon committing an actual offence; there is no approach toward restriction and control of either individual or community movement within the legislation; and the execution of the offender and ‘slaves of the state’ punishment for families do not speak to the reclamation agenda or reformatory spirit that typifies the drive toward settlements in the later CTAs.

The next step change in the history of extraordinary crime and punishment in British India came in the 1820s and 1830s with the moral outcry and government response to the phenomenon of *Thuggee*. In the next section, I will argue that the reaction to *Thuggee* begins with the innovations of Article 35, but also, over the course of the response itself, develops the signature characteristics of heredity criminality and ‘reclamation’ of offenders that play such a prominent role in the juridical discourse of the later nineteenth century.

3.2.2 Thuggee and Dacoity

Throughout the 1820s and 1830s, the moral panic surrounding *Thuggee* led to the development of its own legislative response (the 1836 Thuggee Act), its own specialist law enforcement department (the Thuggee and Dacoity Department, often referred to as ‘T&D’), and later a new series of measures that introduced reformatory concepts into the administration’s approach to stamping out the phenomenon. It is possible to discern within the evolution of the approach toward *Thuggee* a significant transition in the way that

'extraordinary' native criminality was treated – beginning with the retributive tenor and emphasis on deterrence by fear typical of Article 35, developing during its application concepts of hereditary criminality, and building to innovations in reformatory measures, including the settlement of entire families into 'industrial prisons', where honest work would 'reclaim' present and future generations from the grip of their addiction to crime. In addition to being central to the historical development of the Criminal Tribes system, it should be noted that this transition within the approach to *Thuggee* maps neatly onto Foucault's notion of the change from the punitive model of sovereign power (where the ruler has the ability to 'take life or let live') to the administration of an affirmative, transformative biopower ('*make live and let die*'), a hallmark of his theory of biopolitics.⁹⁶

The criminal activities described as *Thuggee*, highway robbery often accompanied by murder of the traveller(s) robbed, their bodies hidden to avoid detection, was not 'discovered' in the 1820s. Anastasia Piliavsky and Martine van Woerkens have both presented convincing evidence that this phenomenon was known and documented in India long before the Company and Colonial periods of the country's history.⁹⁷ Useful therefore in understanding the historical context of the *Thuggee* response is Freitag, who identifies the 1830s as a 'watershed decade' for 'the imposition of the British Raj on north India' for two reasons. Firstly, for the cohesion of an imperial social order that co-opted some indigenous groups into the ruling culture, creating others as 'bandits and other wandering groups' to be suppressed. Secondly, the 1830s were a period of profound economic disruption that saw many of those who lost out, return to alternative social formations that pre-dated the British, many of which

⁹⁶ Foucault, *Society Must Be Defended*. 241. (emphasis mine).

⁹⁷ Piliavsky, A. 'The "Criminal Tribe" in India before the British', in *Comparative Studies in Society and History*. 2015, 57(2), 323-354. 336.; and van Woerkens, M. *The Strangled Traveler*. Chicago; Chicago University Press, 2002. 109.

(with other means of obtaining a living limited by the economic circumstances) organised themselves around dacoity and communal banditry.⁹⁸ The British response to the collective acts of crime at the time can therefore be seen as part of the wider effort to impose British power and reinforce the authority of the colonial legal system at a time of instability and potential rebellion.⁹⁹ Piliavsky describes the perceived ‘crisis of crime’ in the 1820s and 1830s as:

“...intrinsicly bound up with the formulation of the colonial police, an institution pivotal to the establishment and extension of colonial governance on the subcontinent.”¹⁰⁰

With this wider context in mind, I now turn to examine three substantive elements of the authorities’ response to *Thuggee* – the Thuggee Act of 1836, the development of heredity in the accounts of and approaches to the suppression of Thuggee, and the reformatory perspective that manifested itself in the later development of industrial prisons and inter-generational ‘reclamation’ efforts across convicted Thuggee prisoners and their families.

The 1836 Thuggee Act and its various amendments through to 1843 share the common features of the British response to ‘extraordinary crime’ established Article 35 some seven decades earlier. Collective guilt is established in the first clause of the 1836 Act, itself extraordinary in its own way:

1. It is hereby enacted that whatever shall be proved to have belonged, either before or after the passing of this Act, to any gang of Thugs, either within or without the territories of the East India Company, shall be punished with imprisonment for life, with hard labor.¹⁰¹

⁹⁸ Freitag, S. ‘Crime in the social order of north India’, in *Modern Asian Studies*. Vol. 25, No. 2 (May 1991), 227-261. 232-234.

⁹⁹ Freitag, ‘Crime in the Social Order’, 230

¹⁰⁰ Piliavsky, A. ‘The Moghia Menace, or the Watch over Watchmen in British India’, in *Modern Asian Studies*. Vol. 47, issue 03 (May 2013), 751-779. 755.

¹⁰¹ Act XXX of 1836; quoted in van Woerkens, *The Strangled Traveler*, 100.

‘[B]elonged...to any gang of Thugs’ is doubly significant in terms of the movement to collective guilt in *esse* as opposed to *operari*; firstly, it makes explicit that it is membership of a ‘gang’ that determines guilt, and not any act that either the individual or gang have or have not committed. This is actually an escalation from the communal punishment provisions of Article 35 which still required at least one criminal conviction for dacoity to have taken place in order to apply.¹⁰² Secondly, as Dilip D’Souza points out in his *Branded By Law*, the clause leaves the term *Thug* entirely undefined – left to the individual police and judicial officers to determine as they see fit:

So it wasn’t necessary to prove that a certain man had committed a certain crime. A vague collective identity was not only enough, it was much easier to prove conclusively than actual guilt. In the case of Thugs, it wasn’t even felt necessary to define the phenomenon, for apparently everyone just happened to know what it was.¹⁰³

The ‘Approver’ system, where alleged Thugs would turn informer on their gangs, also reflected the lower evidence threshold required than for ordinary criminal convictions. Whilst not as nebulous as the ‘public notoriety’ provision of Article 35, Freitag notes that an approver’s testimony (collaborative and circumstantial at best) would often prove the only evidence against a defendant in a prosecution and was ‘considered irrefutable’ by the courts, once the approver’s *bona fides* had been established.¹⁰⁴

In addition to the notion of ‘extraordinary’ crime, the imposition of communal/collective guilt, and the lowering of evidence thresholds, all familiar from the 1772 anti-dacoity legislation, the Thuggee Act itself and the wider anti-*Thuggee* campaign surrounding it, introduced three

¹⁰² Singha, *A Despotism of Law*, 27-28.

¹⁰³ D’Souza, D. *Branded by Law*. New Delhi; Penguin, 2001. 36.

¹⁰⁴ Freitag, ‘Crime in the Social Order’, 238-239.

innovations that make it a key precursor to the later Criminal Tribes approach; hereditary criminality, retroactive guilt, and, later, the idea of reforming Thugs and a reduction in the authorities' reliance on execution and life imprisonment.

The British officer William Sleeman, who made his name in India through the promotion of the idea of Thuggee and the anti-Thuggee campaigns that followed, reflected the transition in British thinking towards a hereditary theory of Thuggee when he published genealogical tables of Thug 'approver' families as part of his *Ramaseena*.¹⁰⁵ According to Brown, the use of tables and the implication of a hereditary element to Thug criminality was a novel departure from the traditional focus on '*individual* law-breakers'.¹⁰⁶ The innovation of hereditary criminality was quickly picked up in practice as well as theory, as law enforcement officials began to use it as justification for the arrest of family members of known Thugs and familial relationships used as incriminating evidence in trials.¹⁰⁷

Once the concept of heredity was introduced to theories of extraordinary native criminality, two further innovations logically followed. Firstly, criminal legislation targeting hereditary criminals could be made retroactive – after all 'once a thug, always a thug';¹⁰⁸ in this respect, perhaps the most significant element of the 1836 Thuggee Act's first clause is that guilt is determined by membership of a Thug group 'either *before or after*' the passage of the Act. The second implication of this transition is that the extraordinary nature of the phenomenon justifies (if not demands) exceptional measures for its eradication:

¹⁰⁵ Brown, M. 'Race, Science and the Construction of Native Criminality in Colonial India', in *Theoretical Criminology*; Vol 5 (3), 2001, 345-368. 350.

¹⁰⁶ *Ibid.* (author's emphasis)

¹⁰⁷ Singha, *A Despotism of Law*, 209.

¹⁰⁸ Singha, *A Despotism of Law*, 208.

It must be remembered, in dealing with the wandering predatory tribes of India, that their fraternities are of such ancient creation, their number so vast, the country over which their depredations spread so extensive, their organization so complete, and the evil of such formidable dimensions, that nothing but special legislation will suffice for their suppression and conversion.¹⁰⁹

Whilst Article 35 certainly carried with it exceptional deterrent and punitive measures, the call for 'extraordinary and permanent solutions' to Thuggee could only be intensified once the concept of hereditary criminality became widely accepted and biological determinism rendered its subjects thoroughly 'unreclaimable'.¹¹⁰

As the response to Thuggee developed, however, it moved away from a retributive model and towards one of reform. This can be seen in the significant reduction, eventually reaching zero in the year 1845, in the use of the death penalty for known thugs.¹¹¹ In Singha, we find evidence for the evolution of the response in the contrast between the mass executions at Jabbalpur and Sagar between 1830-32 (146 hangings within an 18-month period) and the outcome of the Amurpatan case at Sagar in 1832-33 in which every defendant was sentenced to branding and transportation for life.¹¹² This move is not yet one animated by a reformatory spirit but, according to Singha, an outcome of legal concerns of British courts that the lower evidence threshold of approver testimony was being used as a sufficient basis for capital punishment.¹¹³ This evidence is a useful corrective to any impression of universal and uncritical support for the measures used in response to extraordinary crime in British India,

¹⁰⁹ Mayne, F.O. 'Proposed Criminal Tribes Bill from Inspector-General of North West Frontier Provinces F. O. Mayne', letter 2303, 28 May 1867; in *Government of India Legislative Proceedings* (hereafter, Leg. Proc.) Nov 1871. British Library; India Office records, IOR/P/711. Item No.57. 106.

¹¹⁰ Schwarz, H. *Constructing the Criminal Tribe*. Oxford; Wiley-Blackwell, 2010. 38.

¹¹¹ Van Woerkens, *The Strangled Traveler*, 101.

¹¹² Singha, *A Despotism of Law*, 210-211 (fn. 185 for execution figures)

¹¹³ Singha, *A Despotism of Law*, 211-212.

and similar judicial and political concerns (and opposition built upon those concerns) also featured in the construction and implementation of Criminal Tribes legislation.

From the lessening of retribution in sentencing, the later years of the Thuggee response developed a distinctly reformatory agenda – no longer content to label individuals as ‘unreclaimable’ habitual criminals, but rather focused upon using imprisonment to change the habits and attitudes of Thug prisoners and their families. The central example of this shift is in the institution of a prison for Thugs at Jabbalpur, where convicted Thugs and their entire families had been moved ‘to manufacture tents, carpets and other goods on a profit-sharing basis’.¹¹⁴ Major General George Hutchinson (Inspector-General of Police in the Punjab during the 1860s) remarks on the positive move towards reformatory policies signalled by the development of industrial prisons (like Jabbalpur), which allowed families to remain together for the duration of the sentence and gave the children of Thugs the opportunity to see the value of what was considered to be honest work as practised by the parents within those institutions.¹¹⁵ Even Sleeman, initially sceptical of the value of the ‘reclamation’ project at Jabbalpur,¹¹⁶ became a convert to the success of the reformatory approach:

“...at the last visit [which took place in 1848] I found they were...quite ashamed to look back upon the events and incidents of their past lives. They no longer talked among themselves of the scenes of early days. Their sons, who had never seen any of these scenes and incidents, were now become able, industrious, well-behaved and well-dressed young men, who felt no interest in what their fathers could tell them of a trade so abhorrent to the rest of mankind...”¹¹⁷

¹¹⁴ Singha, *A Despotism of Law*, 226-227.

¹¹⁵ Hutchinson, G. *Reformatory Measures Connected with the Treatment of Criminals in India*. Lahore; Punjab Printing Companies Press, 1866. 213.

¹¹⁶ Singha, *A Despotism of Law*, 226-227.

¹¹⁷ Quoted in Mayne, ‘Proposed Criminal Tribes Bill...’, 110.

This 'rising generation' approach, the use of state-judicial power to mould the lives of younger generations away from their communal traditions and towards a British-imposed ideal, would go on to become a key feature of the Criminal Tribes approach. The fact that multi-generational reform is so central to the CT system makes it particularly amenable to a biopolitical reading – both because it targets a population-level change over time, and that it is concerned with what Agamben would recognise as creating a new 'form of life' for those communities.

Overall, the development of the concept of *Thuggee* and its response forms perhaps the key historical precursor to the later Criminal Tribes legislation. The familiar features of Article 35, communal guilt, lowered evidence thresholds, exceptional punishment, remain important components. To these elements, the response to Thuggee added a number of innovations, the beginnings of a concept of hereditary criminality, retroactive legislation, and finally, the development of reformatory and inter-/multi-generational approaches to the 'reclamation' of criminals through new models of imprisonment. Beginning with the hallmark of the Foucauldian traditional sovereign (strong deterrence, rule through fear, wide application of the death penalty), the Thuggee response takes us through a journey that ends with a prototype of Foucault's 'biopower' (moulding a new way of life, through mechanisms of bodily discipline, institutional regulation, and intergenerational strategy).

What remains to be seen in order to account for the full range of distinctive features of the Criminal Tribes system is control of space, and in particular control of movement, as a key element in the toolkit of imperial power. For this, and for the final pieces of precursor legislation in the historical movement towards 1871, this analysis now moves into the 1850s,

the decade which also saw the unprecedented political convulsion of the 1857 rebellion and the resulting imposition of direct colonial rule of India from 1858 on.

3.2.3 Punjab Regulations (1856)

The Punjab Regulations of 1856 form the final, double, precursor to the Criminal Tribes Act. The Regulations not only use the evidence thresholds, communal guilt, concepts of hereditary criminality, and drive to reclamation typical of the later Thuggee response, but also introduce restrictions on movement as a key part of the drive to remould the traditional way of life of targeted wandering tribes. The Regulations act as a double precursor insofar as, in addition to completing the toolkit for the initial Criminal Tribes approach, it was the striking down of the Regulations in the later 1860s that prompted the Government of the Punjab to propose, and fashion, a comprehensive legislative replacement that eventually became the Criminal Tribes Act 1871.

Using an executive order, the Punjab government enforced a system that restricted the movements of three tribes – Sansis, Harnis, and Baurias – with the idea of forcing their members into a new way of life:

“The logic behind the experiment was that if tribes such as these could be forced to settle they might, as a consequence, also be induced to take up some form of settled agricultural production and to shake off their otherwise strong preference for criminal activity.”¹¹⁸

Sanjay Nigam notes that, in addition to demonstrating the centrality of movement control to administrative ideas on effective management of these tribes, it is possible to see how knowledge production – in the form of genealogies, itineraries, lists of alleged offences, and

¹¹⁸ Brown, ‘Crime and Empire’, 81.

so on, did as much to form the perception of hereditary criminals from an epistemic position as subjection to enforcement mechanisms did from a practical one.¹¹⁹ Of course, the link between these examples and the concept of the ‘epistemic foundations’ of biopolitics is clear, and will be discussed further in Chapter Four.¹²⁰

The system that resulted from the Punjab Regulations was not a particularly successful one, Brown notes that the space allotted to these ‘reservations’ was not sufficient for the interned tribes to sustain themselves – resulting in high rates of sickness and mortality, and necessitating food aid from British authorities to ensure their survival.¹²¹ Ultimately, the 1856 Regulations were struck down by the Chief Court of the Punjab in 1867 on the grounds that the system of movement restrictions had ceased to enjoy the ‘force of law’ when superseded by elements of the Indian Code of Criminal Procedure (promulgated 1861) and Indian Penal Code (of 1862).¹²² Whilst robustly contested by some law enforcement officers, such as Thuggee and Dacoity Department veteran Donald McLeod, on the basis of the inadequacy of ‘ordinary’ criminal legislation to fully challenge the extraordinary nature of hereditary native crime,¹²³ the ruling stood and saw existing settlements ordered to disband.

This judgement prompted the Government of the Punjab to petition the Government of India for a comprehensive piece of legislation aimed at the control of Criminal Tribes using the methods of the 1856 Regulations.¹²⁴ Both the Inspector General of Punjab’s Police (Francis Mayne, quoted earlier) and then-Secretary to the Government of India James Fitzjames

¹¹⁹ Nigam, S. ‘Disciplining and policing the ‘criminals by birth’, Part 1’, in *The Indian Economic and Social History Review*, 27 (2), 1990, 131-164. 138.

¹²⁰ See, in particular, pp. 266-268.

¹²¹ Brown, ‘Crime and Empire’, 81-82.

¹²² Nigam, ‘Disciplining and policing...Part 1’, 139.

¹²³ Nigam, ‘Disciplining and policing...Part 1’, 139-140.

¹²⁴ Brown, ‘Crime and Empire’, 82.

Stephen, agreed that Criminal Tribes presented a problem that couldn't be confronted by the tools available to ordinary law enforcement, requiring special measures in the form of a Bill to control Criminal Tribes.¹²⁵

It is by this route that a century of incremental innovations in law enforcement practice culminated in the Criminal Tribes Act 1871. From the communal criminal liability and special measures of Warren Hastings' Article 35, through the development of concepts of hereditary criminality and the retroactive determination of guilt stemming from the 1836 Thuggee Act, including the drive towards reformation and 'reclamation' of the later Thuggee system (centred around the industrial prison/'Thug Factory' at Jabbalpur), and building on the exacting movement restrictions enforced against the Sansis, Baurias, and Harnis of Punjab, this gradual accumulation of precedents that ensured, in the words of Mark Brown, that the draft Criminal Tribes Act 'should not be viewed as arriving on the desks of the Government of India in Calcutta cold'.¹²⁶

In the next section, which looks at the Criminal Tribes Acts themselves, I will show that even the initial 1871 legislation was far from a passive amalgam of existing approaches. The Criminal Tribes Act and the attendant systems of enforcement and control that grew up around it was, from its inception, a dramatic extension and expansion of the state's capacity for the control of those tribes it considered in need of exceptional measures if they were to be reclaimed as manageable and productive peoples of the Raj.

¹²⁵ Mayne, 'Proposed Criminal Tribes Bill...', 106. Stephen J. 'Notes to meeting of Legislative Council of Government of India, 3 Oct 1870', in *Legislative Council Proceedings 1869-1871*. British Library; India Office Records IOR 54 (microfilm), Reel 5. 422-423.

¹²⁶ Brown, 'Crime and Empire', 82.

3.3 The Criminal Tribes Acts and Amendments, 1871-1911

Legislation is a primary element of this case study.¹²⁷ My interest in legislation, and its wider significance for the discipline of political theory, rests in its role as a point of materialisation. Legislation not only marks the passage of an idea into the physical artefact of the document or statute; more importantly, it is also the threshold over which ideas and values translate into changed material realities and lived experiences of the people under its rule. For both of these reasons, a study of legislation and the documentary assemblage of law remains a field of prime importance to researchers seeking to illuminate either side of this threshold.

It is with respect to law as this point of materialisation, and with the recognition that much work has been done on the human stories of the Criminal Tribes Act but little work done on the legal architecture of the system, that I now proceed to a short examination of the Acts themselves. Here, I will briefly examine the pertinent elements for our inquiry of the most important Criminal Tribes Acts and Amendments.¹²⁸ The clauses selected for discussion here are those we have determined to be of significance beyond the everyday working of the Act and of theoretical significance for this project.

¹²⁷ Legislation, which, in the spirit of *legis latio* or 'raising to law', should be thought to include any and all codifications and declarations of a constituted authority; therefore, including regulations and guidelines, etc., and not limited to official Acts and motions.

¹²⁸ We will look at the 1871 Act, 1897 Amendment, and 1911 Act. These Acts created and refined the Criminal Tribes system. There were subsequent Criminal Tribes Acts (for example, 1924) but these were mainly consolidating acts, making minor amendments to wording to ensure consistency of application. One exception was the new power in the 1924 Act to extradite individuals from Princely States in order to give them a CT designation (on this, Mark Brown, 'Postcolonial Penalty...', 193).

3.3.1 Act XXVII of 1871: Birth of the Criminal Tribes system¹²⁹

Clause Two – Local Government to report Criminal Tribes

The responsibility to identify potential Criminal Tribes is given to “Local Government”. In practice, this was effected by an application for notification made by the local police force to a District Magistrate.¹³⁰ They must subsequently seek permission from the “Governor General in Council” to have them declared Criminal Tribes.

It is the second clause that contains the now-(in)famous description of the qualifying criteria of the Criminal Tribe:

“...any tribe, gang or class of persons [that] is addicted to the systematic commission of non-bailable offences”

This formulation, ‘tribe, gang or class’, relates to the part of the ‘common core’ model (namely, ‘population as object’). This tripartite formula establishes the subsets of the Indian population to be targeted by the measures of Criminal Tribes legislation.

Clause Three – Required elements in Local Government report

The initial report to the Governor General in Council requires three distinct pieces of information. Firstly, a statement of reasons for the suspicion that a tribe may be addicted to the systematic commission of non-bailable offences; second, any particulars of specific acts or offences with which the tribe are associated; and thirdly, an outline of how the tribe will be able to make an honest living should the movement restrictions and other measures in the remainder of the Act be applied to them.

¹²⁹ A full copy of the Criminal Tribes Act 1871 can be found in, Marriott, J. and Mukhopadhyay, B. (eds.), *Britain in India, 1765-1905: Justice, Police, Law and Order*. London; Pickering & Chatto, 2006. 228-239.

¹³⁰ Radhakrishna, ‘Surveillance and Settlement...’, 172.

The final of these requirements, which we might call the ‘livelihood clause’ for the sake of brevity, is particularly interesting. Meena Radakrishna notes how the obligation on administrators to provide, or at least guarantee, a reasonable living for Criminal Tribes rendered the operation of the settlements system problematic until it was successfully watered down by subsequent amendments, and ultimately removed in the 1911 Act.¹³¹

Radakrishna also highlights the significance of the wording of Clause Three, insofar as, in practice, the “reason to believe” far outweighed the specifics of the offences the Act was intending to prevent.¹³² “Reason to believe” works to reinforce the trend toward lower evidence thresholds for communal crime, established and developed since the Hastings administration’s Article 35 measures.

The lowering of evidence thresholds relative to the established criminal codes is clear evidence of what we have described as ‘regimes of exception’, the second element of the Agambenian model of biopolitics in Chapter Two. There is also a case for considering the lowering of evidence thresholds as part of a ‘trajectory of escalation’ (the fourth point of the Agambenian model), insofar as the formulation allows for interventions to be triggered upon ‘suspicion’. This greatly increases the number of people potentially captured by the provisions of the Act, and for activities that would not previously have resulted in sanction.

Clause Six – Judicial bar on challenges to notification

Courts of Justice are prohibited from challenging the validity of any notification made under the Criminal Tribes Act. The final sentence of this clause is highly significant and worth quoting at length:

¹³¹ Radhakrishna, *Dishonoured By History*, 45.

¹³² Radhakrishna, *Dishonoured By History*, 55.

“...but every such notification shall be conclusive proof that the Provisions of this Act are applicable to a tribe, gang or class specified therein.”

No doubt the clause is drawn up with an eye on the Courts’ previous role in terminating the Punjab Regulations of 1856, the catalyst for the discussion of potential Criminal Tribes legislation in the first place.¹³³ However, the second section appears an innovation well in excess of safeguarding against the inconvenience of a judicial challenge. In attempting to provide the basis of an explanation to ground the prohibition, the final sentence of the clause creates a self-validating legislation. The notification itself becomes proof that notification is necessary, rendering the notification, in effect, its own cause and justification.¹³⁴

Clause six offers a fascinating glimpse into the kind of *ex nihilo* imposition that Agamben and Schmitt both identify as the ultimate prerogative of sovereign power, and is strong evidence for the ‘exceptionality’ element of the thesis model.¹³⁵

Clause Thirteen – Settlement of wandering tribes

This clause empowers the Local Government to specify an area in which to settle any Criminal Tribe in their district that has no permanent place of residence.

The settlement provisions of the Criminal Tribes Acts are among the most important for our thesis, as they ultimately establish the reformatory system upon which the biopolitics of ‘reclamation’ is built. This clause relates directly to the Chapter One ‘common core’ model, which establishes ‘politics-as-spatial-administration’ as a key component of biopolitical analysis.

¹³³ Brown, M. ‘Colonial histories and theories of the present’, in Godfrey and Dunstall (eds.), *Crime and Empire 1840-1940*. 81-82. Also, Nigam ‘Disciplining and policing...Part 1’, 139.

¹³⁴ Brown, ‘Colonial histories...’, 83.

¹³⁵ This point will be more fully discussed in the chapter applying biopolitics as political theory to the case of the Criminal Tribes system, which follows in Chapter Four. See discussion at pp. 282-283.

Clause Seventeen – Reformatory settlements

Given its significance for this thesis, and also its vague construction in the 1871 Act, the wording of this clause is here reproduced in full:

“The Local Government may, with the sanction of the Governor General in Council, place any tribe, gang or class, which has been declared to be criminal, or any part thereof, in a reformatory settlement.”

There are two things to note here; the first being the recapitulation of the links established in our commentary on Clause Thirteen to the concept of ‘politics as spatial administration’. The second, however, is the qualifying proviso “...or any part thereof...”. Later iterations of Criminal Tribes legislation do more to assist with the sub-division of tribes themselves, and the use of ‘part thereof’ is in both instances an extension of the principle of ‘population-as-object’ –one of the prerogatives of biopolitical power is to continuously re- and sub-categorise its population into discrete objects of management, intervention, division, and (re)aggregation.

Clause Nineteen – Penalties for breaching rules

This clause sets out the penalties incurred for the breach of any rules made under clause eighteen.¹³⁶ It mandates different combinations (and extents) of whipping, fines, and imprisonment, depending on the number of previous breaches.

Later changes to the prescribed punishments for infractions speak to the concept of ‘trajectories of escalation’, derived from Agamben’s biopolitics, as they intensify. This will be further discussed in relation to the CTA’s 1897 Amendment, below.¹³⁷

¹³⁶ Clause Eighteen includes rules as to the precise composition of information in the CT registers, the detail of processes by which registration is completed, the means by which tribes can be settled or removed, the work, pay, and conditions of settlements, and disciplinary measures within settlements.

¹³⁷ Discussed at pp. 199-201.

Clause Twenty – Arrests

This clause, with India-wide application, sets out the powers for the warrantless arrest and return of any person registered as a member of a Criminal Tribe who is either found beyond the limits of his movement pass, or has escaped from a reformatory settlement. The individual is to be returned to the district or settlement within which they are registered and will then be dealt with by the disciplinary procedures and punishments sanctioned under clauses eighteen and nineteen.

The existence of warrantless arrest as a feature of the Criminal Tribes system, speaks to the Agambenian notion of ‘regimes of exception’. It is clear that these arrests do not proceed on the basis of the established legal procedure and judicial oversight that would accompany arrests in a ‘normal’ case.

These are the clauses of the original Criminal Tribes Act that establish the elements of the system that we are interested in. I will now follow the development through to the CTA’s full systematisation (in the Act of 1911), via its first substantive amending legislation in 1897.

3.3.2 Expansion, Extension, Intensification: The Criminal Tribes Act, Amended (1897)¹³⁸

The first legislative amendment to the Criminal Tribes Act achieves three substantial modifications to the original legislation; the expansion of its potential area of application, the extension of its control over tribal families, and the intensification of conditions of apprehension and punishment. In addition to identifying the correspondences of key sections with this project’s two models of biopolitical exclusion, seeking to demonstrate the greater applicability of the Agambenian model over the ‘common core’, I will argue that the amending

¹³⁸ Act No.II of 1897. an Act to Amend the Criminal Tribes’ Act, 1871. Sourced at: South Asia Archive website (Taylor and Francis); <http://www.southasiaarchive.com/Content/sarf.140306/200810/003>. Accessed 26/02/2017, 14:40.

act as a whole should also be seen as evidence of the ‘trajectory of escalation’ in itself. I will demonstrate this on three grounds. Firstly, by the Amendment’s expansion of the Act’s geographical application; secondly, by its extension into family structures through provisions for the removal of children from parents; and finally, by its intensification of apprehension and disciplinary practices.

Expansion – Widening the net

The first substantive clause in the Amendment opens the potential area of the Criminal Tribes Act’s application to the entirety of British India. Upon the receipt of the necessary permissions from the Governor General in Council, the Amendment changes the wording of the Act’s first clause to empower:

“...any Local Government [to]...declare all or any of the provisions of this Act...to be in force in the whole or any part of the territories under its government.”

The expansion contained in the amendment is a passive or suspended one, insofar as a Local Government must proactively gain permission for the Act to apply in their area, but the direction of travel is clear. What the amendment achieves passively will be achieved actively in the 1911 Act, which expands the Act *tout court* to every part of India under British government.

A further amendment to clause one, although more a refinement than an expansion, is contained in a new Clause 1A. Clause 1A formalises the ability of a Local Government to specify that the Act’s chosen terms of “tribe, gang or class” are also held to mean any subsection of a tribe, gang or class as declared by the administration – effectively allowing for a more precise identification of the individuals and groups targeted by, or exempted from, the provisions of the Act. This improvement of the targeting capacities of the Criminal Tribes

legislation further enhances its ability to conceive of, categorise, and sub-divide its population into distinct objects of (differential forms of) administration.

Extension – Removal of children

The second of the amendment's three changes to the Criminal Tribes Act gives the Local Government the ability to remove children, defined as individuals between the ages of four and eighteen years old, from their families and into separate reformatory settlements built specifically for children. The settlements are to be run by a Superintendent, appointed by the Local Government, who becomes the legal Guardian of the children admitted.

The move to the separation of children from parents for the purposes of reformatory education was, of course, far from peculiar to the Criminal Tribes system. Across the British Empire, we can trace a wider move towards models of state-backed residential reformatory education, from the United Kingdom itself¹³⁹ to British North America,¹⁴⁰ as well as separately (i.e. outside of the Criminal Tribes legislation) in general application across the Raj.¹⁴¹ Whilst it is essential, therefore, to see the move towards the removal of CT children for the purposes of reformatory education in this wider context, it still represents an extension of the provisions of the Act deeper into the family structure – a substantial escalation in the context of a system which deliberately and explicitly set out to achieve its project of 'reclamation' over multiple generations.

A consistent theme in both administrative and Salvation Army literature on the Criminal Tribes revolves around the 'rising generation'. Of particular importance to our enquiry, this

¹³⁹ Youthful Offenders Act, 1854.

¹⁴⁰ Residential schooling for Amerindian children was made compulsory in the 1894 Amendment to the Indian Act. See, Dickason, O.P., *Canada's First Nations* (4th ed.), Don Mills, Ont. ; Oxford; Oxford University Press, 2009. 308-310.

¹⁴¹ Reformatory Schools Act, 1897.

idea of inter-generational reform through the separation of children from their elders to better instruct them into a new way of life is one of the defining (and thoroughly biopolitical) characteristics of the Criminal Tribes approach.¹⁴²

Intensification – Apprehension and disciplinary regimes

The final series of measures in the amendment focus on apprehending suspected members of Criminal Tribes and the disciplinary measures to be enforced upon breach of the rules, particularly relating to movement restrictions.

The amendment to Clause Nineteen of the original Act singles out violations of sub-clauses 4, 5 and 6 – which deal with rules relating to movement restrictions and travel passes. Breaches of these rules see their punishments increased in severity:

	Original CTA 1871	CTA as amended (1897)
First offence	Any/all of: Six months' imprisonment; fines; whipping	One year imprisonment; whipping
Second offence	One year imprisonment; fines; whipping	Two years' imprisonment; whipping
Third offence	[not specified]	Three years' imprisonment; whipping

Offences under the other sub-clauses of Clause Eighteen remain unchanged by the

¹⁴² Discussed shortly in the 'Objectives of the settlement system' section, see pp.217-219.

amendment, indicating a concern about the enforcement of movement restrictions and deterrent effect of the original punishments.

Finally, the amendment inserts two new clauses (19A, 19B) and a Schedule to the 1871 Act. The Schedule identifies twenty-eight specific offences under the Indian Penal Code to which the punishments in Clause 19A apply.

Clause 19A deals intensifies the punitive regime for repeat offences. In addition to the punishments determined by the courts, any member of a Criminal Tribe convicted a subsequent time of any of these offences faces the following punishments:

Second offence	Seven years' imprisonment (minimum)
Third offence	Transportation for life

Clause 19B sets out a new punishment for any member of a Criminal Tribes found “under suspicious circumstances”. Any individual that the authorities deem to have been caught preparing to commit or preparing to assist in the commission of a theft or robbery, or determined to have been “waiting for an opportunity to commit theft or robbery”, can be imprisoned for up to three years and is liable to a fine.

The argument for treating the enhanced disciplinary measures as evidence of escalation is self-evident. Further, the use of ‘suspicious circumstances’ and apprehension whilst ‘preparing’ a criminal act, continues in the long tradition of lowering evidence thresholds that we saw in the precursors to the Criminal Tribes Act in a previous section. This lowering threshold for evidence has the effect of increasing the number of people who may potentially be subject to the Act’s provisions. Clause 19 of the Amendment, then, both expands the number of people who may be taken into the Criminal Tribes system, and intensifies the

measures that those under the Act may face – both features consistent with the Agambenian ‘trajectories of escalation’ that I argued for in Chapter Two.

In all, the 1897 Amendment to the Criminal Tribes Act 1871 shows a clear overall trajectory of escalation in the development of the Criminal Tribes system. The amendment combines a geographic expansion of scope, to potentially cover the entirety of British India; the extension of control into the family, empowering the removal and separation of children from parents; and the intensification of punishments, particularly relating to violations of movement restrictions, and widening the grounds for apprehension and imprisonment to include the nebulous criterion of “suspicious circumstances”.

The Criminal Tribes Act as amended becomes an act that covers more ground, intervenes deeper into family life, prescribes greater physical punishments for disobedience, and lowers the evidence thresholds that can bring individuals into its wider system.

3.3.3 Systematisation: The Criminal Tribes Act, 1911¹⁴³

The Criminal Tribes ‘system’, as I have referred to it, entered what can be described as its ‘mature’ form with the passage of the Criminal Tribes Act 1911. The 1911 Act extended the measures in the 1871 Act (as amended) to all of British India, and introduced a number of new clauses. Notwithstanding the transposition of clause numbers (for example, the power to place tribes into reformatory settlements moves from c.17 in CTA 1871, to c.16 in CTA 1911), the substantial changes and new clauses are as follows:

¹⁴³ The Criminal Tribes Act, 1911 (III of 1911); <http://www.southasiarchive.com/Content/sarf.140898/201604/009>. Accessed 12/03/2017, 21:09. Pages 118-131.

Clause One – Application

Clause 1 (2) reads simply: “It [the Act] extends to all of British India”.

In addition to its clear link to the ‘politics as spatial administration’ approach that is characteristic of biopolitical governance according to the ‘common core’ model. This is also an example of the Agambenian ‘trajectories of escalation’, in this case, geographical.

Clause Nine – Fingerprints

This clause allows for a District Magistrate to “...order the finger-impressions of any registered member of a criminal tribe be taken”.

This clause should be of interest both to theorists of biopolitics and to criminologists, as the Criminal Tribes were one of the first instances of the widespread use of fingerprinting by law enforcement agencies, described as ‘the cradle of the modern fingerprinting system’ by Simon Cole.¹⁴⁴ Fingerprinting also has a direct link to the idea of ‘control of bodies’.¹⁴⁵

Clause Ten – Changes to tribal reporting requirements

This clause requires that any registered members of Criminal Tribes may be instructed to report to local authorities “at fixed intervals”. This addition is technical in nature, an attempt to prevent the ability of tribesmen from reporting at specified roll-call times but wandering (and potentially committing offences) in-between. The mechanism allows for specified reporting schedules throughout the day, at regular enough intervals to prevent all activity besides, usually, travelling between the settlement or place of residence and the location to which they must report. Sources indicate that, for some tribes, the reporting requirements

¹⁴⁴ Cole, S. ‘History of Fingerprint Pattern Recognition’, in Ratha, N., and Bolle, R. (eds.), *Automatic Fingerprint Recognition Systems*, New York; Springer, 2004. 2.

¹⁴⁵ ‘Control of bodies’ is applied to the case study in Chapter 4.1, at pp. 248-252.

were such that they preferred to sleep on the ground at the reporting location, rather than return to their residence and travel back to report again.¹⁴⁶

Whilst not strictly delineating a space within which individual subjects are to remain, roll-call provisions use travelling time to set a boundary beyond which it is impossible to travel without risking an infraction, and the disciplinary and punitive measures that accompany them. In this way, roll-call provisions are just as significant to the notion of ‘politics as spatial administration’ as those measures that draw and impose physical boundaries and movement restrictions, such as walls and fences, on the ground.

Clause Fourteen – Verification of presence

This clause obliges all registered members of Criminal Tribes to report to any place determined by authorities to be their reporting location.

A further aspect of politics-as-spatial-administration, insofar as it allows governing authorities to specify any location as a reporting location (to which those subjected to roll-call must attend), regardless of its relation to any previous or current space known to or used by the notified tribes.

Clause Eighteen – Power to discharge or move within province

Local Government is given the power to direct that any person within any form of settlement (reformatory, agricultural, or industrial) be discharged from that settlement, or removed to a different settlement within their district.

Taken along with clause nineteen, which gives the Governor-General the same power to discharge and relocate (but, in the latter case, to any location in British India), this clause also

¹⁴⁶ Radhakrishna, *Dishonoured by History*, 60.

demonstrates the centrality of spatial administration to the government of Criminal Tribes in this system.

The aim of this section has been to track within the Criminal Tribes legislation itself those clauses that relate directly to either the 'common core' or 'Agambenian' models of biopolitics. In Chapter Four, I will apply both models to our historical case study in greater detail. Our next step here is to survey the key features of the settlements system that was created and maintained by the body of legislation we have discussed.

3.4 Criminal Tribes Settlements

This section will move through three elements of analysis, beginning with the precursors to the settlements system that developed both in India and in the United Kingdom in the century prior to the 1871 Act. I will show the way in which the distinctive characteristics of the settlements system evolved from both domestic policy, for example, the use of pass laws in anti-vagrancy measures, and from the ongoing evolution of penal policy in India, revisiting some of the innovations mentioned earlier such as the 'Thug Factory' at Jabbalpur. This exercise will allow us to locate the settlements on a historical continuum rather than artificially isolated from key precedents and antecedents.

The focus of this section is its second part, which will look at the settlements system itself and identify those specific aspects that lend themselves to biopolitical analysis, whether by relating to one of the 'common core' characteristics of biopolitics in general, or mapping more specifically onto the distinctively Agambenian model of biopolitics that is the principal concern of this thesis. I will look at the objectives of the system, as set out in primary sources and as understood in later commentary, exploring:

- Disciplinary control

- Habits of agriculture, industry, and property ownership
- Inter-generational reform; re-engineering communal ways of life
- Reclamation and productive use of 'wastelands'
- Generation of productive labour, and its integration into the colonial economy

Having set out the objectives of the settlements system, I will move on to look at the precise methods by which these outcomes were to be achieved, namely:

- Movement restrictions
- Regimes of physical discipline and punishment
- Structuring and management of time
- Transmission of new and desirable behavioural standards (or, 'normative transference')
- Tuition in agricultural and industrial production methods
- Wider institutional normalisation (for example, banks, shops, credit)
- Family incarceration, and separation of children for reformatory education

Having examined these characteristics of the settlements system, I will make some concluding remarks on the objectives and methods of the Criminal Tribes system, in advance of the detailed application of my two biopolitical models to the case study (which will occupy Chapter Four).

3.4.1 Precursors to the settlements system

In identifying domestic British precursors to each of the distinctive aspects of the Criminal Tribes settlements system, it is my intention to properly locate these elements in their historical oscillations between centre and colonial periphery over the course of the nineteenth century. I will show how the development of agricultural settlements in India was

preceded by the move towards reformatory labour colonies within the UK as an alternative to the failing Poor Law institutions, such as the workhouse. Agricultural labour for convicts will also be shown to have been an existing element of British penal policy from the middle of the century and a direct inspiration for the Punjab settlements established in 1856, the forerunner and inspiration for the wider Criminal Tribes settlements.

These arguments for institutional transference will be complemented by evidence of ideological transference – in the form of the transplant of existing ‘dangerous classes’ discourse into the theories of hereditary criminality that underwrote the basic concept of Criminal Tribes. Finally, the Salvation Army’s Criminal Tribes vision of redemptive agricultural and industrial labour, coupled with the separation and education of children away from their parents’ presumed proclivity for criminal behaviour, will be seen in the context of their earlier programme for the British poor in *In Darkest England*.

The reformatory and redemptive potential of the labour colony had been identified in Britain in the early nineteenth century. John Field charts the progress of the labour colony as a solution to issues of unemployment and existing Poor Law institutions in the opening chapter of his study *Working Men’s Bodies*.¹⁴⁷ The development of domestic labour colonies was supported by both conservatives, who believed the poor would benefit from time away from the temptations and poverty of the cities, and radicals, who saw colonies as potential incubators for new forms of rural communal life.¹⁴⁸ As the Poor Law system came under increasing pressure, from phenomena such as cyclical unemployment in large cities and distinctive health and social crises related to industrialisation (Field cites old age and madness

¹⁴⁷ Field, J. *Working Men’s Bodies: Work camps in Britain 1880-1940*. Manchester; Manchester University Press, 2013. 9-12.

¹⁴⁸ *Ibid.*, 9.

as particular areas of concern in this respect), support for the institution of labour colonies as alternatives to failing Poor Law provision grew.¹⁴⁹

The transition from a penal to a reformatory approach to poverty and vagrancy in a domestic context over the course of the nineteenth century has also been investigated by Felix Driver, who argues that '[t]he reformation of morals was arguably the key problem for social policy and social science during this period.'¹⁵⁰ Following Foucault's *Discipline and Punish*, Driver sketches the way in which this moral reformation within institutions was increasingly carried out through processes of surveillance and regulation of activities and habits in order to instil "'normal' habits and routines" into inmates through mechanisms of institutional discipline, including management of timetables, diets, and drills.¹⁵¹

In the combination of Field and Driver, it is possible to detect the outline of a precursor to the Criminal Tribes settlements in the context of the domestic institutional response to poverty and vagrancy in Britain during the early nineteenth century. From Driver, the development of Poor Law institutions into spaces where discipline and regulation of bodies, along Foucauldian lines, could enact the reformatory re-engineering of the immoral and indolent into 'normal' citizens. From Field, the idea of the redemptive quality of agricultural labour, practised within enclosed (or otherwise restricted), rural institutions, that underlay the growing interest in labour colonies as alternatives to traditional Poor Law institutions.

It is also worth briefly noting the existence of penal settlements based upon the use of convict labour to reclaim and work the land within Britain. Andrew Major quotes a criminal

¹⁴⁹ *Ibid.*, 11.

¹⁵⁰ Driver, F. *Power and Pauperism: The workhouse system 1834-1884*. Cambridge; Cambridge University Press, 1993. 10.

¹⁵¹ Driver, *Power and Pauperism*, 10-11.

administration report for the Punjab 1862-1863, which argues that the idea for wasteland agricultural settlements for (proto-)Criminal Tribes was “...identical with those regulating the third or intermediate stage of imprisonment of habitual offenders in Ireland.”¹⁵²

Further evidence for this type of institution is found in the anonymous 1852 pamphlet *Suggestions for the Formation of a Penal and Reformatory Settlement for Convicts in the Peninsula of the Mullet on the North-West Coast of County of Mayo, in Ireland*.¹⁵³ In addition to its physical isolation, the Mullet peninsula strikes the author as a desirable location for a convict settlement:

...where, with the advantage of a salubrious climate, profitable...occupation might be found for convicts, either in agricultural works or in trades and manufactures...¹⁵⁴

In much the same vein as we see in the development of agricultural settlements in the later Criminal Tribes system, the author identifies the potential for convicts to be engaged ‘for many years...in agriculture, and reclaiming the lands’ and also that, with good behaviour and proven cultivation, convicts can find themselves released with money in their pockets and better chances for gainful employment in the legitimate economy.¹⁵⁵

These two examples serve to show that a move towards agricultural labour colonies as part of the penal system was clearly underway in the middle decades of the nineteenth century and, according to Major’s evidence, being cited directly in the creation of the Punjab’s first

¹⁵² Cited in, Major, A. ‘State and Criminal Tribes in Colonial Punjab: Surveillance, control and reclamation of the ‘dangerous classes’, in *Modern Asian Studies*, Vol. 33, No. 3 (July, 1999), 657-688. 666.

¹⁵³ Source: *LSE Selected Pamphlets, 1852*. LSE Library. <http://www.jstor/stable/60222883>. Accessed 15/10/2016, 11:39 UTC.

¹⁵⁴ ‘Suggestions for the Formation...’, 4.

¹⁵⁵ ‘Suggestions for the Formation...’, 5. This programme of rehabilitative imprisonment was originally formalised as the ‘[Walter] Crofton system’ in Ireland. On the design and development of this system, see Hinde, R.S.E ‘Sir Walter Crofton and the Reform of the Irish Convict System 1854-61—I’, in *Irish Jurist*, new series, Vol. 12, No. 1 (Summer 1977), 115-147.

generation of agricultural settlements.¹⁵⁶ However, the institutional forms of reformatory labour aren't the only aspect of the CT system that can be traced to earlier British precedents.

Rachel Tolen's study of the involvement of the Salvation Army in the Criminal Tribes administration in India references the almost wholesale transference to India of an already-existing discourse on 'dangerous classes' within Britain:

...the idea of the "dangerous classes" – who were composed of the unemployed, vagrants, the poor, criminals, drunkards, and prostitutes – was firmly ensconced in Victorian thought and a common discourse identified their physical characteristics, habits, and locale. Various causes were proposed to explain the criminality of these dangerous classes: strong drink, ignorance, poor upbringing, indigence, character defects, and hereditary predisposition.¹⁵⁷

The concept of 'dangerous classes' in mid-nineteenth century Britain therefore furnished accounts of hereditary criminality, an impetus towards the use of disciplinary controls to keep members of such classes in check, and theories of moral reformation – all of which went on to feature in the original understanding, and management, of Criminal Tribes.¹⁵⁸

The distinctive characteristics of the Criminal Tribes episteme, hereditary/habitual criminality transmitted through family and kinship groups, primarily consists of the combination of 'dangerous classes' discourse with the British misapprehension (and resulting misapplication) of 'caste' as an essential guarantor of exclusive multigenerational occupations.¹⁵⁹

Tolen goes on to cite movement restrictions, pass systems, and labour colonies as elements of the physical and institutional response to domestic issues of poverty, unemployment, and

¹⁵⁶ Settlements whose dissolution by the High Court, it will be remembered from pp. 189-190, generated the impetus for the original Criminal Tribes Act of 1871.

¹⁵⁷ Tolen, R. 'Colonizing and Transforming the Criminal Tribesman', 108.

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.* There is a wider discussion on this British misunderstanding/misapplication of caste when I apply the concept of 'epistemic foundations' to the Criminal Tribes case study, at pp. 268-271.

vagrancy, that made their way out to India alongside the attitudes and prejudices of 'dangerous classes' discourse.¹⁶⁰

The domestic objectives and practices of the Salvation Army are also an important element in the development of the Criminal Tribes system in Radhakrishna's *Dishonoured By History*. She notes the Army's plan, laid out in General Booth's *In Darkest England*, for the reformation of the English poor through agricultural and industrial settlements, in rural and urban locations, respectively.¹⁶¹ Further parallels between the Army's domestic and India agenda are identified in the drive to reclaim wasteland and bring it into productive use; the role of "industrial schools" in separating children from parents; and the exploitation of (to varying extents) captive labour for economic advantage.¹⁶²

Combining the insights of these writers on the phenomenon of Criminal Tribes, we can see that the way in which both the framing of the 'problem' and the approach towards a 'solution' developed directly from prevailing attitudes and policy measures in Britain that predated the Criminal Tribes Act by the best part of a century. Rather than an exceptional and orientalist excess, the constituent parts of the Criminal Tribes response all appear as transplants from the United Kingdom – its 'dangerous classes' discourse and misconception of 'caste'¹⁶³ forming the intellectual frame for the concept of Criminal Tribes; its dissatisfaction with Poor Law institutions increasing support for reformatory labour colonies; its existing penal institutions focused on the removal of criminals to perform productive agricultural labour in

¹⁶⁰ Tolen, 'Colonizing and Transforming the Criminal Tribesman', 113.

¹⁶¹ Radhakrishna, *Dishonoured By History*, 74.

¹⁶² Radhakrishna, *Dishonoured By History*, 74-75.

¹⁶³ Which, as a product of British epistemology, I class as a 'domestic' innovation in this context. The specifics of the idea of misunderstanding/misapplication of caste are further discussed in the 'epistemic foundations' section of Chapter Four at pp. 268-271.

the countryside; and the Salvation Army's programme of rural and urban settlements and reformatory education to wean children away from the criminal habits of their parents.

Having made the case for acts of both institutional and ideological transference at the heart of the development of the Criminal Tribes system in India, it remains to briefly revisit the precursors to the settlements system that developed within India itself in the decades before the first Criminal Tribes Act of 1871. In the context of the domestic precedents cited above, we will quickly recall the reformatory spirit of the 'Thug Factory' at Jabbalpur, and the movement restrictions that accompanied exceptional criminal regulations enacted in the Punjab in 1856.¹⁶⁴

As mentioned earlier, the development of anti-*Thuggee* measures between the early and middle decades of the century formed a moment of transition away from a purely punitive stance (with a heavy focus on executions) towards the idea of 'reformatory' imprisonment. In the same way, and at roughly the same time, as the redemptive qualities of 'honest' labour upon the "dangerous classes" of Britain's poor was being touted as an alternative to traditional Poor Law payments and incarceration, the 'Thug factory' at Jabbalpur was putting convicted Thugs to work with the same intent.

We have already encountered Sleeman's remarks on the success of Jabbalpur's reformatory successes, with both the current and 'rising' generations. In response to the original consultation on the Criminal Tribes Act itself, the Inspector General of Police in the North

¹⁶⁴ Whilst my intention here is to trace the precursors to the CT system in terms of discourses of 'extraordinary challenge' making necessary an 'exceptional' (and collective) response, there is also a significant precursor within the traditional juridical system in the form of penal transportation. This system made many similar claims to rehabilitative labour and reformatory intent, including family resettlements, and was a major element in both Company India (up to 1857) and crown colony India from 1858. For more on this, see Anderson, C. 'The British Indian Empire 1789-1939', in Anderson, C. (ed.) *A Global History of Convicts and Penal Colonies* (London; Bloomsbury Academic, 2018), 211-244.

West Province, F. O. Mayne, cited the effectiveness of the industrial prison in encouraging inter-generational reform:

The Thugs...finally acquiesced, and by degrees consented, to labor themselves, in order to encourage their sons to do the same. Their prejudices and opposition were gradually overcome. Money was advanced by Government, which was repaid from the profits of the manufactory. Schools were established, the factory succeeded beyond the most sanguine expectation...¹⁶⁵

It was Mayne's view that existing institutions such as Jabbalpur, and existing settlements in 'Mozuffernuggur' and 'Gorrukpore', should become the basis for the creation of a Criminal Tribes settlements system.¹⁶⁶ Finally, of interest in tracking the development of what we have called the 'reformatory spirit' of the time, is Mayne's aspiration that the CTA system may place such settlements "on a better and more liberal footing" than their Indian precursors.¹⁶⁷

The wisdom of allowing families to join convicts in the industrial prisons of the Thuggee and Dacoity Department was approvingly noted by Punjab's Inspector-General of Police Major George Hutchinson (known as a 'reformatory' voice in colonial Indian law and order):

...the humanizing and beneficial influence of family ties when freed from criminal influences...no doubt did quite as much to suppress thuggee, if not more, by the care for the children, than was ever effected by hanging or transporting the parents...¹⁶⁸

It is clear that reformatory labour and an emphasis on inter-generational socialisation away from criminal activity, featured increasingly heavily in the institutional forms of the anti-*Thuggee* administration in the middle of the nineteenth century. The fact that these measures

¹⁶⁵ Mayne, 'Proposed Criminal Tribes Bill...', 109.

¹⁶⁶ Mayne, 'Proposed Criminal Tribes Bill...', 106.

¹⁶⁷ *Ibid.*

¹⁶⁸ Hutchinson, G. *Reformatory Measures Connected with the Treatment of Criminals in India*. Lahore; Punjab Printing Companies Press, 1866. 213.

developed directly into the inspiration for the architecture of the Criminal Tribes system is testified to both by contemporary sources such as Mayne, and in the later scholarship.¹⁶⁹

The distinctive form of the agricultural settlements also had its pre-CTA precursors in India, primarily in the Punjab after the ‘Punjab Regulations’ of 1856.¹⁷⁰ The idea of reformatory agricultural labour, the settling of criminal families onto good land with the aim of making responsible, honest cultivators of them, also features in Hutchinson’s commentary as a promising development.¹⁷¹ Andrew Major also sets out the growth of settlements for the Sansi and Pakhiwara tribes in the 1850s and 1860s as precedents for the reformatory settlements that featured in the original Criminal Tribes Act.¹⁷²

This brief recap on Indian precursors traces developments that influenced the CT settlements system. We can see the distinctive features of that system – labour colonies, the reformatory potential of agricultural production, and inter-generational approaches to re-engineering ways of life – developing within India, at the same time and in relation with, similar shifts in attitudes and institutional responses to poverty and criminal activity in the United Kingdom.

3.4.2 Making and breaking ways of life: Objectives of the settlements system

This section will look at the objectives of the settlements system as created, and subsequently extended and refined, under the Criminal Tribes Acts. I will identify systemic objectives of the settlements system with particular significance for a biopolitical reading of the CTA settlements apparatus, developed with reference to both primary sources and later scholarship. The objectives I will look at, are:

¹⁶⁹ See, for example, Radhakrishna, M. ‘Surveillance and settlements...’, 178.

¹⁷⁰ Discussed in detail earlier, pp. 188-191.

¹⁷¹ Hutchinson, *Reformatory Measures...*, 199.

¹⁷² Major, ‘State and Criminal Tribes...’, 666-667.

- Disciplinary control
- Instilling habits of agriculture, industry, and property
- ‘Reclamation’, and inter-generational reform
- The reclamation and cultivation of areas of wasteland
- The generation and integration of productive labour

In seeking to account for the methods designed to achieve those objectives, the next section will move on to examine:

- Movement restrictions
- Regimes of physical discipline and punishment
- Regulation and management of time
- ‘Normative transference’ of preferred standards of behaviour and occupation
- Tuition in agricultural and industrial production
- Wider institutional normalisation – property relations, retail and financial institutions
- Family incarceration, and the separation of children for reformatory education

Objective: Disciplinary Control

For Mark Brown, concurring with Nigam, the primary objective of the Criminal Tribes Act 1871 was ‘to achieve disciplinary control of nomadic tribes as much as it was to punish individuals for specific breaches of the penal code’.¹⁷³ Rachel Tolen describes the physical and institutional elements of the CTA system as ‘a material infrastructure that sought to re-form

¹⁷³ Brown, M. ‘Race, science and the construction of native criminality in Colonial India’, in *Theoretical Criminology*, Vol.5 (3) (2001), 345-368. 361.

the bodies of criminal tribesmen'.¹⁷⁴ A contemporary account of the disciplinary attitude of authorities comes from Mrs Brigadier Smith of the Salvation Army, whose memoirs recount:

When the British Government took over India they were very worried because these [Criminal Tribes] had become such a problem to the police and government.

About 1910, the Viceroy of India called Commissioner Booth-Tucker...and enquired if [the Salvation Army] could rake these people and make something of them.

[...] Small houses were built and our officers had to provide work for them. This was something they had never experienced...¹⁷⁵

Notwithstanding the shortcomings of the account's description of the Viceroy soliciting Salvation Army assistance,¹⁷⁶ the evidence speaks to the objective of establishing and maintaining disciplinary control over Criminal Tribes as an immediate objective of policy.

Objective: Habits of agriculture, industry, and property

The idea of instilling habits of agriculture or industry among a less-developed people was by no means an exclusively British imperial imperative. That said, the concept was central to the settlements system, to the ideological/discursive structures that framed the Criminal Tribes system as a whole, and feature prominently in the secondary scholarship. Mrs Brigadier Smith obliges us with a description of how settlement residents were taught trade skills relating to the production of cotton goods, which were then taken and sold across India.¹⁷⁷

¹⁷⁴ Tolen, 'Colonizing and Transforming the Criminal Tribesman', 113.

¹⁷⁵ Smith, Mrs S. 'Inside story of 'The Long Duel'', in *Papers of Brigadier Arthur Hughes c.1934-40*, Salvation Army International Heritage Centre, IN/2/1. 1-2.

¹⁷⁶ Both Tolen and Radhakrishna offer convincing accounts that the transfer of Criminal Tribes settlements to SA control was the result of extensive personal lobbying by Commissioner Booth-Tucker on his organisation's behalf. See Tolen, 117, and Radhakrishna, *Dishonoured By History*, 72-74.

¹⁷⁷ Smith, *Ibid.*

Commissioner Booth-Tucker's memoir of his time and, by extension, the Salvation Army's involvement, on the subcontinent, *Muktifauj*, offers a view of the administrative mindset that prevailed throughout the management of agricultural and industrial settlements:

The problem of making the settlers self-supporting was one of the most serious that faced us when we commenced this work, seeing that few of them had ever done an honest day's labour, while all objected to hard work, and few knew any handicraft, or had any inclination for agriculture. The rapidity with which this change has taken place has surprised the most experienced Government Officials, who were well acquainted with their thriftless habits, and their propensity to drunkenness and gambling as well as robbery.¹⁷⁸

The drive to instil habits of private property and inheritance through the disciplinary system of Criminal Tribes Settlements can be found in the *Criminal Tribes Administration Manual, Punjab*, which sets out one of the special rules relating specifically to agricultural settlements is the passing of plot ownership to the "male lineal heir" for a period of fifteen years.¹⁷⁹

All of these measures demonstrate the drive, as described by Mark Brown, to pressure 'wandering tribes to relinquish their nomadic ways, take up settled agriculture and turn themselves into productive workers' by adopting the habits of agriculture, industry, and property expected of them.¹⁸⁰

Objective: 'Reclamation', and inter-generational reform

This focus on the modification of the habits, designed to culminate in the re-engineering of a wider 'way of life', reaches its culmination in the Criminal Tribes Act's vision for inter-

¹⁷⁸ Booth-Tucker, F. *Muktifauj, or forty years with the Salvation Army in India and Ceylon*. London; Marshall Brothers Ltd, c.1930. 218.

¹⁷⁹ Author unknown. *Criminal Tribes Manual, Punjab, Part II*. Lahore; Superintendent Government Printing, 1919. 66.

¹⁸⁰ Brown, 'Race, Science...', 360.

generational reform. The possibility of a moral 'reclamation' (to use a popular term at the time) of younger generations through reformatory education and work practices required a move away from the rigidly determinist biopolitics of the early approach to Criminal Tribes, typified by blunt state interventions into both reproductive and marriage arrangements.¹⁸¹ Meena Radhakrishna identifies the involvement of the Salvation Army in Criminal Tribes administration as a key factor in the transition from rigidly biologized accounts of hereditary crime, to an understanding of communally-based criminal activity as socio-economically derived and therefore a mutable characteristic capable of correction.¹⁸² This discursive transition from the existing, punitive, discipline-focused idea of settlements, to an understanding of them as institutional spaces with a wider pedagogic/reformatory mission, particularly for the younger generations of Criminal Tribes, is significant and widely reflected in the administrative literature of the time.

An early example of the reformatory spirit and inter-generational approach which would shape the Criminal Tribes policy, worth quoting at some length, comes from Captain Dennehy's *Annual Police Report for North-West Provinces, 1868*:

I do not hope that we can ever succeed in reclaiming any of the adults of these numerous classes, for whom crime has become an hereditary custom, *but their children might be educated out of the vices of their fathers*, and this is an object for the achievement of which, in the interests of humanity and civilization, no expense and trouble should be spared.¹⁸³

¹⁸¹ How these measures were applied in the case of the Sansiahs is described in Freitag 'Crime in the Social Order...', 250-252.

¹⁸² Radhakrishna, 'Surveillance and Settlements...', 179.

¹⁸³ Excerpt from 'Annual Police Report, Deputy Inspector of-General of Police, North-West Provinces, 1868', Document 73 in *Government of India Legislative Proceedings, Nov. 1871*. British Library, India Office Records, IOR/P/711. 181. (My emphasis)

Fifty years later, as the Criminal Tribes system reached its administrative peak in the wake of the CTA 1911's extension of the Act and settlements across India, the Revenue Secretary to the Government of Punjab (Mr E. Joseph) concurred:

Marked progress has been achieved in the elementary education and discipline of the children of the settlements, on whom primarily rests the future of the reformatory movement...¹⁸⁴

This idea of progress between generations is a consistent theme in the Salvation Army literature, finding perhaps its most succinct expression in the memoirs of Brigadier Arthur Hughes:

In spite of the old folk clinging to the ancient and backward practices, the change since I remember first seeing [the Bhandus] in 1921 is prodigious. The second and third generations are arising, and unlike the older people are educated. The young are susceptible to new ideas.¹⁸⁵

The role this 'rising generation' was envisioned to play is ultimately made clear in Salvation Army Commissioner Booth-Tucker's description of how men and women of the Tribes themselves are being "trained...[to] become the saviours and leaders of their nations."¹⁸⁶

Both Brigadier Hughes and Mrs Brigadier Smith make positive remarks about the progressive effect of mortality on the quality of tribal behaviour, with the latter remarking "'What a change"[...]The older ones have died and the young ones grown up with such a different outlook on life".¹⁸⁷

¹⁸⁴ Joseph, E. 'Review of the report of the Deputy Commissioner for Criminal Tribes on the administration of the tribes during the year 1918', in, Government of Punjab, *Report on the Administration of Criminal Tribes in the Punjab for the Year Ending December 1918*. British Library, India Office Records, IOR/V/24/633. 1.

¹⁸⁵ Hughes, 'Life Among Lifers', 21-22.

¹⁸⁶ Booth-Tucker, 'The Criminal Tribes of India', 133.

¹⁸⁷ Smith, 'Inside Story...', 6; also, Hughes, 'Life Among Lifers', 23.

An approach to the reform of traditional ways of life, spanning multiple generations over the course of decades, and practiced through both settlement labour and the separation of children from parents for the purposes of reformatory education was a distinctive and integral part of the mature Criminal Tribes system. The ambition and horizon of this objective also makes it essential to my argument that the Criminal Tribes system itself should be seen as an exemplar of biopolitical administration.

Objective: Reclamation and cultivation of wasteland

The moral and habitual ‘reclamation’ of wayward Criminal Tribespeople was not the only material that British policy sought to incorporate into the lifeworld of Empire through the practice of corrective agricultural labour. There is evidence from Salvation Army officer L. French, author of an Army ‘colony manual’ in the Punjab, that Indian local government in the province had already pursued land reclamation through the “Chenab Scheme”.¹⁸⁸ The stated objectives for the development of agricultural colonies on Indian wasteland, according to French, was twofold; firstly, to relieve population pressures building in more crowded areas; and secondly, to populate the countryside with “well-to-do yeomen...who will cultivate their own holdings...and will constitute healthy agricultural communities of the best Panjab type”.¹⁸⁹

The production of this colonial ‘yeoman’ ideal – the settled and sedentary, private property holding, agricultural producer – features as a vital first step in this wider vision of land reclamation. Reporting on the progress at the Army settlement at Moradabad, Commissioner Booth-Tucker approvingly notes the ‘the land itself has been brought into the most perfect

¹⁸⁸ French, L. *The Panjab Colony Manual, Vol. 1*. Lahore; Civil and Military Gazette Press, 1907. 4.

¹⁸⁹ *Ibid.*

cultivation', through the creation of wells, engines, and water pumps, by the Haburah tribespeople living there.¹⁹⁰

Whilst the reclamation of 'wasteland', or rather its conversion to cultivatable, productive land, was therefore not an objective exclusive to Criminal Tribes settlements, it is clear from both primary and secondary sources that it was a significant factor in the administration's vision for the latter. Radhakrishna explains that the promise of land reclamation was used as a specific incentive by the Salvation Army in their appeals for state investment in settling Criminal Tribes under their control.¹⁹¹ Elsewhere, she also sets out in some detail, the exact ways in which land reclamation activities featured as a motivating, if undeclared, objective of Criminal Tribes policy:

A confidential document, for government's own use and reference, reveals government's actual concerns as far as agricultural settlements were concerned. At the Kavali settlement in Nellore, it had been planned that 950 acres of forest land would be cleared for agricultural purposes with tools for work and funds for drilling wells provided by the government. At Aziznagar settlement in North Arcot, it was noted with some anxiety that 'the work of opening up the lands was not pushed on with, and [...] only 100 acres had been opened up'. It was noted of this settlement that progress was painfully slow due to the settlers being treated with too much leniency...In other words, the progress of the settlement itself was identified with progress in land reclamation.¹⁹²

Andrew Major also argues that the development of Criminal Tribes settlements in the Punjab was closely tied in with the existing land reclamation schemes that formed the provinces

¹⁹⁰ Booth-Tucker, *Muktifauj*, 213.

¹⁹¹ Radhakrishna, *Dishonoured By History*, 101.

¹⁹² Radhakrishna, 'Surveillance and settlements...', 183-184.

“canal colonies”, with a view to populating these newly-irrigable areas with reformed/reforming agricultural producers.¹⁹³

Objective: Productive labour and its integration

The final of the five objectives of the Criminal Tribes system that we would identify as significant to our investigation is the corollary of habitual reform into agricultural and industrial production, the generation and (re)integration of the resulting labour skills into the productive economy.

In his detailed analysis of the involvement of the Salvation Army CT settlements in silk production, Jagjeet Lally argues that the Army’s view of the productive potential of ‘idle’ labour was consistent with the wider views within the political administration:

Such beliefs were typical of those frequently espoused by the colonial state: the utility of criminal labour – whether on the settlements or in jails – was seen to lie in its idleness, for *this idle labour could be mobilized* to manufacture traditional craft items in need of preservation and improvement...and (re)introduction into the local economy[...]¹⁹⁴

Lally’s analysis is confirmed by the Government of Bengal’s *Criminal Tribes Manual* of 1930, whose list of rules for its agricultural settlements sets out the fourteen specific labouring activities that individuals held there were to be engaged on – all traditionally (in the British sense) productive activities, which includes silk worm rearing, textile and pottery production, basket-making, and pastoral care of animals, among others.¹⁹⁵

¹⁹³ Major, ‘State and Criminal Tribes...’, 686-687.

¹⁹⁴ Lally, J. ‘Crafting colonial anxieties: Silk and the Salvation Army in British India, circa 1900-1920’, in, *Modern Asian Studies*, 50, 3 (2016), 765-807. 791.

¹⁹⁵ Government of Bengal. *Criminal Tribes Manual*. Calcutta; Bengal Secretariat Book Depot, 1930. (Available at British Library, India Office Records, IOR/V/9169). 35.

It is in the commitment of the Criminal Tribes Act to the development of “alternative economic skills” to facilitate the integration of difficult and/or rebellious groups into the colonial order of British India that Mark Brown identifies the CTAs and their settlements system as a step beyond the traditionally penal and punitive approaches of the past.¹⁹⁶ By moving beyond an initial concern with armed brigands (composed of “decommissioned servicemen”) and developing an approach that sought to break and remake the ways of life of nomadic tribes and communities whose traditional means of employment had either ceased to exist or were becoming increasingly redundant, Brown is absolutely right to note the new scale of ambition reflected in the Criminal Tribes Act.¹⁹⁷ The system’s drive to (re)create each CT member’s labour to fit the administration’s vision for the Indian economy and to integrate them into the economic, political, and social order of British India, is clearly an order of magnitude beyond the objectives of its legislative and penal precursors.

3.4.3 Methods of Control within the CT settlements system

Having argued for five key objectives of the Criminal Tribes Acts’ settlement systems, this section will examine the means by which authorities sought to achieve their ends. I will begin with the two most ‘traditional’ elements of policy response, movement restrictions and regimes of discipline/physical punishments, and then move on to five further measures that mark distinctive steps beyond the punitive and into the biopolitical: the structuring of time; the transference of British/European behavioural norms; tuition in agricultural and industrial production; the wider institutional normalisation of finance, property, and retail; and, the separation of children from families for the purpose of reformatory education.

¹⁹⁶ Brown, ‘Race, science...’, 362.

¹⁹⁷ *Ibid.*

Method: Movement restrictions

The idea of movement restrictions as a mechanism of disciplinary control was certainly not introduced with the Criminal Tribes Act; we have already seen that it can be traced back at least two decades within the Punjab,¹⁹⁸ and there is evidence to show a systematic pass-and-movement-restriction system imposed in Bombay during 1827.¹⁹⁹ However, Sanjay Nigam is correct to emphasise the significance of movement restrictions to the CTA, which was designed from its inception to control the wandering of tribes whose nomadic way of life presented an economic and social challenge to the colonial state.²⁰⁰

The 1871 Act governed the movement of notified tribes under sections four, and thirteen through fifteen.²⁰¹ Section four obliges the Local Government to include in its initial report on a tribe's criminal tendencies a suggestion of a location that they will be settled in order to allow its members to pursue an honest livelihood.²⁰² Sections thirteen through fifteen make clear that the notified tribes can be settled by Local Government in a place of the latter's choosing, with the proviso that the means for making an honest livelihood must be present.²⁰³ As mentioned earlier, the India-wide expansion of the system under the Criminal Tribes Act 1911 did away with the 'livelihood provisions'.²⁰⁴ The 1911 Act also added a (new) section

¹⁹⁸ 'Punjab Regulations (1856) discussion, at pp. 188-191.

¹⁹⁹ Government of Bombay, 'Letter no. 264, 19 Jan 1905' (Response to Government of India consultation on expansion of Criminal Tribes Act). Government of India, *Criminal Tribes Act 1911*. British Library, India Office Records, IOR/L/PJ/6/981, File 86.

²⁰⁰ Nigam, S. 'Disciplining and policing the 'criminals by birth', Part 2: The development of a disciplinary system, 1871-1900', in *The Indian Economic and Social History Review*, 27, 3 (1990), 257-287. 259.

²⁰¹ Marriott, J. and Mukhopadhyay, B. (eds.), *Britain in India, 1765-1905: Justice, Police, Law and Order*. London; Pickering & Chatto, 2006. 228-239.

²⁰² *Ibid.*, 231.

²⁰³ *Ibid.*, 233.

²⁰⁴ See CTA 1871 discussion, at pp. 192-193.

twelve, which allows the Local Government to set an area within which a Criminal Tribe's movements are to be limited.²⁰⁵

What this meant in practice is spelled out in a letter from an F C Griffiths, Assistant Superintendent of Police in Thar and Pakar, in his response to a request for information on the local management of the Hur tribe in 1904.²⁰⁶ Griffiths identifies the three categories into which all 2534 members of the Tribe held in settlements were sorted, each with their own level of movement restrictions:

- Class One – five mile movement limit, twice-daily attendance at roll-call
- Class Two – Every other night spent within settlement, evening and morning roll-call attendance to ensure
- Class Three – Every second night spent within settlement (so, 24 hours' more freedom than Class Two)²⁰⁷

So, from inception, the Criminal Tribes system used movement restrictions as a key tool in its disciplinary toolkit, including restriction by settlement and by further gradations within the settlement population, including setting maximum radii for movement and using frequency of roll-calls to prevent wider travel. Breach of these rules, and the many other settlement rules we have discussed elsewhere, led to acquaintance with the second modality of control that I will explore, regimes of physical discipline and punishment.

²⁰⁵ Government of India, *Criminal Tribes Act 1911*. British Library, India Office Records, IOR/L/PJ/6/981, File 86. Section 12.

²⁰⁶ Griffiths, F.C. Response to request for information re: management of Hur settlements ('Letter 9-C, 17 Aug 1904'), in, Government of India, *Criminal Tribes Act 1911*. British Library, India Office Records, IOR/L/PJ/6/981, File 86.

²⁰⁷ *Ibid.*

Method: Regimes of physical discipline and punishment

Citing her work on the Salvation Army's focus on physical discipline as Rachel Tolen's distinctive contribution to Criminal Tribes literature, Jagjeet Lally's own study on SA settlements asserts that the Army "sought to 'discipline' the body of the *individual* colonial subject through its work...on the settlements and the use of their labour".²⁰⁸ In addition to discipline through labour (many aspects of which we will examine in their own right shortly; for example, the structuring of time), separate regimes of physical punishment existed for breaches of rules created under the auspices of Criminal Tribes legislation.²⁰⁹

The Criminal Tribes Act of 1911 outlines physical punishments for rule breaches in sections twenty-one to twenty-three. Failure to appear, register, or leave a fingerprint at a specified time and place resulted in a warrantless arrest, up to six months' imprisonment, and a fine of up to 200 Rupees.²¹⁰ Violations of the pass system and movement restrictions escalated from a tariff of one year's imprisonment on a first conviction, to two years for the second violation, and three years for subsequent convictions.²¹¹ All remaining rules (i.e. non-movement-related) attracted a different register of tariff; first conviction leading to up to six months' imprisonment and up to 200 Rupees in fines; all further violations were punished with imprisonment of up to one year and a fine of 500 Rupees.²¹² Finally, Criminal Tribes members convicted of repeat violations of any provisions in the India penal code were punished by up to seven years imprisonment on the second conviction, and transportation for life on any subsequent convictions.²¹³

²⁰⁸ Lally, 'Crafting Colonial Anxieties...', 769. (Emphasis in original.)

²⁰⁹ A useful and concise summary is available in Brown, M. 'Postcolonial penalty: Liberty and repression in the shadow of independence, India c. 1947', in *Theoretical Criminology*, 21 (2), 2016. 186-208. 192.

²¹⁰ CTA 1911, section 21.

²¹¹ CTA 1911, s. 22 (1)

²¹² CTA 1911, s. 22 (2)

²¹³ CTA 1911, s. 23 (a) and (b)

Interestingly, one element of punishment that did not survive the transition from the 1871 Act to its 1911 systematisation is whipping, a removal that further echoes our argument about the transition away from penal incarceration towards a positive biopolitics of moral (and physical) reclamation.²¹⁴ The second salient aspect of the above is the special status accorded, if only in the negative light of its enjoying a separate series of punishments in the breach, of movement restrictions to the CTA's system on control. The tariff for a first violation of the movement restrictions being a spell of incarceration double that of any other violation of CTA or settlement rules. For us, this only serves to underscore the centrality of movement, and control over movement, to the disciplinary system developed under Criminal Tribes legislation.

Method: Regulation of time

I have already cited the way in which a graduated series of roll-call obligations were used to limit the amount of time different categories of Hur tribespeople could spend away from their points of registration.²¹⁵ In the settlements themselves, working time became an essential part of disciplinary control and the normalisation of ideal habits of industry. The *Criminal Tribes Manual* for Bengal gives us an indication of how working time was specified and controlled by authorities, with provisions for working time based on age and day of the week:

- Adult (16+ years old): nine hours per day
- Juvenile (12-16 years old): seven hours per day
- Juvenile (under 12 years old): four hours per day, plus 2 hours in school
- Saturdays: Half-day

²¹⁴ See, J. L. Jenkins' notes on sections 22-27 of CTA 1911, in his 'Statement of Objects and Reasons'; part of Government of India, *Criminal Tribes Act 1911*. British Library, India Office Records, IOR/L/PJ/6/981, File 86.

²¹⁵ See above, p. 224.

- Sundays: Off, although expected to be used for cleaning, laundry, and other useful domestic tasks²¹⁶

The regulation of time is also picked up in the secondary literature. For example, Radhakrishna describes how “[w]atching and monitoring the movements of settlers” became central to the management of Criminal Tribes, to the extent that some settlers found themselves “checked four times from sunset to sunrise.”²¹⁷ Tolen’s analysis of the Salvation Army’s administration of Criminal Tribes reinforces the importance of time regulation, further deepening the theoretical register of her work by reading the latter in relation to E. P. Thompson’s work on the changing conceptions and uses of time over the course of Britain’s industrial revolution.²¹⁸ For Tolen, the regulation of time was the critical component in the Army’s toolkit for establishing and maintaining disciplinary control over their charges, and encouraging the changes to habit required by the objective of their ‘reclamation’:

But such practices also served to reinforce the power of the clock to determine the behaviour of the person, to inculcate the habit of “being on time,” and to make manifest the *value* of time.²¹⁹

Finally, we can follow Tolen’s examination of the activities of the Salvation Army, back to the Army’s sources. For example, the roll-call is mentioned as a fact of settlement life in Mrs Brigadier Smith’s memoir,²²⁰ and Commissioner Booth-Tucker’s recollection of settlement life also includes reference to the Army’s famous ‘knee-drills’ (kneeling prayer services) at the large settlement of Stuartpuram, with two drills before dawn each day, each with approximately four hundred settlement attendees.²²¹ Booth-Tucker also suggested the use of

²¹⁶ All examples from Government of Bengal. *Criminal Tribes Manual...*, 35.

²¹⁷ Radhakrishna, ‘Surveillance and settlements...’, 191.

²¹⁸ Tolen, ‘Colonizing and Transforming...’, 118.

²¹⁹ *Ibid.* (Emphasis in original.)

²²⁰ Smith, ‘Inside story...’, 3.

²²¹ Booth-Tucker, ‘The Criminal Tribes...’, 133.

reductions in regulated time as a reformatory incentive for positive behavioural change, suggesting that those who achieve ‘nekmash’ (i.e. well-behaved) status within a Criminal Tribe be rewarded by exemptions from roll-call.²²²

I have therefore identified, in both the primary and secondary literature, that the regulation and management of time was a fully developed tool in the drive to reform the lives and habits of the Criminal Tribes. Whether in the form of roll-call, dawn prayers, working hours, and the specification and organisation of essential domestic tasks to be completed when not working, the structure of the individual’s day is designed by the system’s administrators with a view to habituating each of them to the rhythms and rigours of an idealised model of ‘working life’.

Method: ‘Normative transference’ of standards of behaviour and occupation

Commissioner Booth-Tucker’s *Muktifauj* paints a revealing picture of Salvation Army attitudes to their work with Criminal Tribes, describing the Doms as “very unpromising material” for the Army’s reclamation efforts, given their unkempt appearance and addictions to drinking and gambling.²²³ Nevertheless, he reflects on their ultimate success in turning the Doms into a “neat and clean” people.²²⁴ Here, I examine the method of control we will call ‘normative transference’, the imposition and adoption of new standards of appearance and behaviour among Criminal Tribes members held in the Act’s institutional spaces.

The *Criminal Tribes Administration Manual* for the Punjab gives us a vision of how this transference was implemented. Provisions within the rules governing settlements set out that Sundays (notionally, a non-work day, as discussed in the sub-section on regulation of time, above) were to be spent attending to bathing and clothes washing, activities designed to bring

²²² Booth-Tucker, ‘The Criminal Tribes...’, 128.

²²³ Booth-Tucker, *Muktifauj*, 208.

²²⁴ *Ibid.*

the appearance of the Criminal Tribesman into conformity with British hygiene standards.²²⁵ The same set of rules incentivise this conformity in the form of monetary prizes, weekly and monthly, for cleanliness.²²⁶ This represents a double transference; not only rewarding those who prove best at measuring up to British hygiene and appearance norms, but doing so with a monetary reward – part of the wider institutional normalisation of finance and banking (amongst other things) that will be discussed momentarily.

Normative transference as a method of control is also referenced throughout the secondary literature. Mark Brown identifies the Criminal Tribes’ “refusal to accept these new British-led norms of Indian society and required forms of individual subjectivity” as a primary reason for their targeting and exclusion through the Criminal Tribes Acts.²²⁷ Citing the Punjab Manual, Andrew Major also describes further methods of normative transference, including prohibitions on alcohol and “unwholesome food”, uptake of handicrafts, and experience of leisure activities such as “wrestling and magic lantern shows”.²²⁸ This aspect of settlement life is further illuminated in the primary sources by Brigadier Hughes’ Salvation Army memoir *A Model Convict Settlement*, which adds sports competitions, competitive educational scholarships, and amateur dramatics to the menu of approved activities available for participation within Army settlements.²²⁹ The wider attempt at cultural transference in the forms of leisure activities show the drive of the Criminal Tribes’ reformatory policies beyond traditionally punitive discipline (of which enforced hygiene standards can arguably be part, although not, I would argue, their incentivisation and socialisation by recognition and

²²⁵ Author Unknown, *Criminal Tribes Administration Manual...*, 58. Rule 41.

²²⁶ *Ibid.*, rules 28-30.

²²⁷ Brown, ‘Colonial History and Theories of the Present’, 87.

²²⁸ Major, ‘State and Criminal Tribes...’, 677.

²²⁹ Hughes, A. ‘A Model Convict Settlement’ (typescript), in *Papers of Brigadier Arthur Hughes, c. 1934-1940*. Salvation Army International Heritage Centre, IN/2/1. 8-9.

reward). This provides an important link to the notion of *non-material shaping* that I have argued is an essential component of Agamben's concern with 'form of life'.²³⁰

Rachel Tolen examines in some detail the emphasis placed upon female dress and ornamentation in Salvation Army practices of normative transference. Lambadi women under Army management abandoned traditional dresses in favour of the sari, lighter weight and washable.²³¹ The use of the pass system to force the adoption of hygiene standards (using appearance as a criterion for being allowed to leave the settlement and attend market²³²) is certainly more heavy-handed than the incentivisation schemes discussed, but reinforces the significance of this aspect of reform for the administrators of Salvation Army settlements. Clare Anderson's chapter on 'The Question of Convict Dress' in *Legible Bodies* supports Tolen's analysis of the importance of female ornamentation to Salvation Army administration of Criminal Tribespeople.²³³ Anderson also argues that the imposed norm of "saris and turbans" in native dress was itself part of an attempt to bring the Criminal Tribes into conformity with a British ideal of Indian tradition.²³⁴

In sum, the primary and secondary evidence both give valuable examples of the mechanisms by which changes to the habits and lived experience of members of Criminal Tribes within settlements were being implemented. Normative transference of hygiene and behaviour standards took two forms; a traditionally disciplinary approach of enforcement and punishment (for example, withholding pass privileges), and the more positive approach of incentivising conformity and rewarding it with both recognition and resource in the form of

²³⁰ Section 2.5 'Form of life', non-material shaping at pp. 129-130.

²³¹ Tolen, 'Colonizing and transforming...', 117.

²³² *Ibid.*

²³³ Anderson, C. *Legible Bodies: Race, Criminality and Colonialism in South Asia*. Oxford; Berg, 2004. 130.

²³⁴ *Ibid.*

prizes. Both approaches show a consistency of emphasis on the creation and imposition of externally-derived behavioural norms as a key method for the control of Criminal Tribes.

Method: Agricultural and industrial tuition

An essential part of re-moulding the lives of Criminal Tribespeople to an ideal of sedentary, agricultural and industrial production, was the transfer of the necessary skills. In addition to the *habits* of work, we see evidence in the literature for the tuition of settlement residents in approved agricultural and industrial production methods.

Starting with Major, we have a lengthy description of elements of tuition intended for Criminal Tribes industrial settlements, such as the CT institution at Amritsar:

The industrial settlements...were initially intended be places where inmates would be taught various specialized craft skills, such as hand-loom weaving, and paid on a piece-work basis.²³⁵

Major notes that, in reality, the institutions developed differently, and that industrial settlements eventually became “suppliers of unskilled and semi-skilled labour” to the industrial concerns of the Raj.²³⁶

Whilst the outcome, essentially sweatshop labour coerced through Criminal Tribes legislation, bore a more ruthless economic rationality, our concern is with the idea of programmatic reform and the role of industrial tuition as a method of achieving this. On those grounds, the initial intention of the industrial settlements remains as relevant to this question as their final application.

²³⁵ Major, ‘State and Criminal Tribes’, 677. See also, Lally, ‘Crafting Colonial Anxieties’, 769-771 on the significance of the Salvation Army’s focus on sericulture and silk production in its approach to reformatory labour in Criminal Tribes settlements.

²³⁶ Major, *Ibid.*

In relation to agricultural settlements, Freitag quotes the Lieutenant-Governor of the province that became known as the United Provinces, discussing the progress of the Sansiah Criminal Tribe:

[The Lieutenant-Governor's] optimistic view emphasized that 'during the last five years they have been under discipline, and have to a certain extent acquired habits of industry and have been taught agriculture' or, to put it differently, been schooled in the value system and virtues of agrarian society.²³⁷

The value of *teaching* agriculture (or, a specific form of agriculture based around private property, small-holdings, and so on) appears here as a central benefit of the Sansiah's incarceration in a reformatory settlement. Radhakrishna concurs that 'cultivation' was widely seen as "the epitome of respectable, sedentary life", into which Criminal Tribes were to be lifted through reformatory labour in agricultural settlements.²³⁸

In sum, there is evidence of the value of production skills-based tuition in the development of both agricultural and industrial settlements. Whilst the industrial settlements fulfilled a different function in the end (this historical trajectory is still of interest to us, and will be discussed in Chapter Four's section on the 'labour turn'²³⁹), and whilst the agricultural settlements themselves often failed, both forms of reformatory institution set out to build an idealised peasantry with knowledge, skills, and experience of the methods of agricultural and handicraft-industrial production methods that British authorities wished to see generalised across the subcontinent.

²³⁷ Freitag, 'Crime in the Social Order...' 254.

²³⁸ Radhakrishna, *Dishonoured By History...*, 163-164.

²³⁹ Section 4.3, pp. 298-306.

Method: Wider institutional normalisation

In addition to the moulding of new habits and teaching new production skills, a further element of the conditioning of Criminal Tribes within settlements was the attempt to introduce a range of institutions and attitudes towards institutions that would benefit future subjects of the Raj. Here, I will offer examples ranging from the relatively abstract institutions of wage labour, private property relations, and commodity ownership, through to the existent institutions of shops, hospitals, and credit that make up the architecture of lived western experience to this day. What these examples will show is a further dimension of the ambition to re-form the ways of life of the Criminal Tribes. Here, the reshaping of the CTs' way of life is not to be achieved solely through methods of direct, physical correction, but aims towards a 'wider institutional normalisation', forcing inmates into proximity to, and interaction with, the social, economic, and cultural institutions associated with an idealised colonial, peasant life in the minds of the system's administrators.

I have already shown that the normalisation of private property relations was a key objective of Criminal Tribes policy.²⁴⁰ The CT Manual for Bengal includes a rule that allows for rent-free distribution of settlement plots into private ownership on condition that the family receiving the plot has been "well-behaved", uses it only for subsistence agriculture, and works the land themselves.²⁴¹ Further reference to the management of settlement plots as property can be found in Radhakrishna:

Small plots of land were to be then parcelled out to families of settlers, who were to be tenants of [the missionary organisation administering the settlement]. A rent would be charged, to be used for covering

²⁴⁰ See pp. 215-216.

²⁴¹ *Criminal Tribes Manual...* (Bengal), 35. Rule 11.

the expenses of the settlement. If any family was found to be neglecting the land, it was to be put on hard labour...and the land was to be given away to another family.²⁴²

In terms of institutional normalisation, the charging of regular rents is just as interesting as the making over of small plots of land to families as property. Both of these intend to effect the acclimatisation of previously (mainly) wandering and nomadic tribes into the settled, commodified, and financialised structure of land ownership in the British (for which one can equally read European/Western) system.

The Punjab Government's report on the progress of Criminal Tribes administration cites an improvement in the wage-earning capacity of settlement residents and the erosion of the previously-held stigma against wage labour.²⁴³ The same report mentions Punjab settlements sending residents out as wage labourers to private enterprise.²⁴⁴

The normalisation of commodified labour, wage- and piece-work, and remunerated employment were clearly a core aspect of the reformatory vision of the system's design.

Andrew Major's study of Criminal Tribes settlements provides a comprehensive view of the wider institutions and services that grew up within the settlements:

By the early 1930s these settlements had all acquired a host of ancillary services to help with the reformation of the inhabitants: cooperative supply shops, cooperative credit societies, primary schools, dispensaries, the services of religious teachers, Red Cross societies, St John Ambulance classes, Scouting troops, Better-Farming and Better-Living societies.²⁴⁵

²⁴² Radhakrishna, 'Surveillance and Settlements...', 184. See also her *Dishonoured By History*, 99-101.

²⁴³ Government of Punjab, *Report on the Administration...*, 1.

²⁴⁴ *Ibid.*

²⁴⁵ Major, 'State and Criminal Tribes', 684.

Reference to similar enterprises and services can be found in Freitag's description of the designers' intentions for the Criminal Tribes settlement for Sansiahs at Kheri. Here, the small village-like residences that the Sansiahs were to build for themselves within the confines of the settlement were to be complemented by "a hospital assistant with proper supplied of medicines", shops for the sale of necessary goods, and a school.²⁴⁶

Finally, Tolen also cites an Indian former police inspector revealingly describing the success of the "far reaching changes in the economic and social life" of the Criminal tribes, in terms of their eventual ownership of houses, furniture, sewing machines, and bicycles.²⁴⁷ Tolen highlights the identification of legitimacy and respectability in the commodities accumulated by reformed Criminal Tribespeople, and draws this into relation with the progress of an *inner* commoditisation of the life and labour of the people themselves.

The conclusion to draw from the examples above is that the Criminal Tribes system featured a complex and multi-dimensional approach to what I have described as 'wider institutional normalisation'. The internal commoditisation of labour and the normalisation of wage labour and employment; processes of socialisation into small-holding private property and regular rent payments; and the presence of shops, hospitals, credit unions, banks, schools, and so on, in the everyday lives of those held within settlements; together, these form the vision of the institutional environment into which the reformed Tribespeople were supposed to grow. And indeed, reflected the institutional makeup of Indian lives outside the settlement, within which they were ultimately intended to take their place. Note that the institutional interactions that this element of the CT system sought to normalise is very much in keeping with the

²⁴⁶ Freitag, 'Crime in the social order...', 253.

²⁴⁷ Tolen, 'Colonizing and Transforming...', 199.

Agambenian idea of shaping an ideal ‘form of life’, or *bios*-life, for the quite literally re-formed Indian peasants who were ultimately intended to eventually leave the camps and settle in towns and cities (with a remarkably similar wider institutional architecture) beyond.

Method: Family incarceration, and the separation of children for reformatory education

We have already seen that the move towards ‘reformatory’ discipline included the co-location of families in penal institutions, such as the ‘Thug factory’ at Jabbalpur.²⁴⁸ This inclusion was made on two grounds; a practical concern for the prospects of families unable to fend for themselves without recourse to further crime; and the quasi-humanitarian belief that keeping families united would be better for the morale, behaviour, and productivity of those imprisoned.²⁴⁹

There is no mention of family units in the 1871 Criminal Tribes Act, although the incarceration of families was quickly adopted as an unofficial convention of CTA administration in practice.²⁵⁰ There is also evidence in the primary source material that families figured prominently in post-1871 Criminal Tribes thinking, in the 1889 application of Mr J Woodburn (Chief Secretary to the Government of the North West Province and Oudh) to central government for the notification of the Sansiahs as a Criminal Tribe.²⁵¹ Woodburn lays out the local government’s plan to “detach” and “plant out” the 200 “least criminal” Sansiah families among local villages to take up agricultural production, whilst those who were more difficult to manage would be moved into settlement at Sultanpur.²⁵² The same application makes

²⁴⁸ Discussed at pp. 186-187.

²⁴⁹ *Ibid.* See also, Radhakrishna, ‘Surveillance and settlements...’, 182 (fn. 50-51).

²⁵⁰ Radhakrishna, ‘Surveillance and settlements...’, 182.

²⁵¹ J. Woodburn to Secretary to the Government of India, Home Dept. Letter no. 835/VIII-647-97 (17 Dec 1889), in *Judicial and Public Annual Files 2101-2268* (1890), British Library, India Office Records, IOR/L/PJ/6/291, file 2250. 2.

²⁵² *Ibid.*

reference to up to seventy of the most problematic juveniles being relocated to a juvenile-only reformatory at Fatehgarh.²⁵³

The government response to the NWP & Oudh application is revealing. Responding on behalf of the Governor-General-in-Council, Mr C J Lyall notes with approval that the proposed settlement of families at Sultanpur resembles the successful model of Jabbalpur, but cautions that any such institution must (if the notification of the Sansiahs is approved) must be exclusively used for the settlement of CT families, with no enforcement of “jail discipline” or confinement of “ordinary prisoners” alongside the Sansiah families.²⁵⁴ Lyall is also at pains to point out that the Criminal Tribes Act in force at the time (i.e. CTA 1871) does not allow for the separation of children from their families without either explicit consent or a breach of existing disciplinary rules.²⁵⁵

The exchange offers two insights into the application of the Criminal Tribes Act as it related to families and children; firstly that, from as early as the 1871 Act, the family (rather than the individual offender) was considered as a unit for (re)location and management; and secondly, that both local and central governments were considering the removal of children from families for reformatory purposes and were aware of the limits of CTA legislation in this respect.

The inability of CTA 1871 to separate children from families for the purposes of reformatory education was overcome in the Act’s 1897 Amendment,²⁵⁶ which itself was published a matter of months before the more general expansion of reformatory education in that year’s

²⁵³ *Ibid.*

²⁵⁴ C J Lyall to J Woodburn. Letter no. 521 (23 April, 1890), in *Judicial and Public Annual Files...*, file 2250. 2-3.

²⁵⁵ *Ibid.*

²⁵⁶ See, pp. 198-199.

Reformatory Schools Act. In the legislation's India-wide extension in CTA 1911, provision for the separation of children is built into the legislation itself as section seventeen:

The Local Government may establish industrial, agricultural or reformatory schools for children, and may separate and remove from their parents or guardians and place in such schools the children of members of any [officially notified] criminal tribe...²⁵⁷

The Act clarifies that the definition of child encompasses any individual between the ages of six and eighteen years old, and that all children thus separated and moved into reformatory education shall be treated as "youthful offenders" under the terms of sections 18-22 of the Reformatory Schools Act.²⁵⁸ It is also worth noting that the initial government draft for CTA 1911 intended to permit separation of children as young as four years old, but this was amended to six after pre-legislative consultation.²⁵⁹

Success in education of young Criminal Tribespeople also became a feature for reports on the efficacy of CT administration; for example, in the *Punjab Report...*, the local government celebrates 'marked progress...in the elementary education and discipline in the children of the settlements, on whom primarily depends the future of the reformatory movement.'²⁶⁰

It is possible to see the contours of administrative debate on separation in Radhakrishna, who alludes to the controversy that persisted in governing circles about whether families were better off kept together in settlements, or have their children removed for reformatory education.²⁶¹ Elsewhere in the secondary material, Major describes how the education of Criminal Tribes children was seen by authorities as the most effective tool for CT reformation,

²⁵⁷ Government of India, *Criminal Tribes Act 1911*, s.17(1).

²⁵⁸ *Criminal Tribes Act, 1911*. Age range: s.17(4); Status and Reformatory Schools Act, s.17(3).

²⁵⁹ Author unknown, handwritten minute JRP 1063/1911, in *Criminal Tribes Act 1911*, British Library, IOR/L/PJ/6/981.

²⁶⁰ Government of Punjab, *Report on the administration...* 1.

²⁶¹ Radhakrishna, 'Surveillance and settlements...' . 182.

whilst the Tribespeople themselves showed little enthusiasm for the education of their children by the British.²⁶² It is clear from both that the separation and education of children formed a key method to deliver the objective of inter-generational reform in both theory and practice of Criminal Tribes administration.

In *Dishonoured By History*, Radhakrishna goes into more detail about the different positions of the Salvation Army and private/commercial employers on the question of family separation. She describes the Army's "enduring view of the corruptibility of children, especially those belonging to the criminal tribe communities", and how this view motivated them to separate children from the bad influences of their parents and elders, and begin the process of intergenerational reform through practices of reformatory education.²⁶³ On the other hand, potential employers, like the ILTD Company and the sugar manufacturer Parry's, sought to keep families together for the sake of better stabilising and settling the families that constituted their new labour forces.²⁶⁴

This dispute does more than underline the salience of family incarceration and the separation of children as methods of controlling and shaping the lives of Criminal Tribes. In identifying the motivation of (some) private employers in the later CT system to "'breed in captivity' a regular, permanent workforce", Radhakrishna also speaks directly to one of the wider concerns of this case study, the *labour turn* of Criminal Tribes administration.²⁶⁵ In this respect, it is worth keeping in mind the wider trajectory whose endpoint appears to be highlighted here by Radhakrishna – a biological-determinist account of communal crime and penal/disciplinary system of control, which became a socio-economic account of communal

²⁶² Major, 'State and Criminal Tribes...'. 684-685.

²⁶³ Radhakrishna, *Dishonoured By History*, 165-166.

²⁶⁴ *Ibid.*

²⁶⁵ Radhakrishna, *Dishonoured By History*, 167.

crime and a disciplinary system of reformatory intent, which ultimately turned into a disciplinary system of economic *production* under conditions of incarcerated and coerced labour.²⁶⁶

This section has identified seven methods by which the principal objectives of the Criminal Tribes system were meant to be achieved. Movement restrictions, already a staple of the British response to ‘extraordinary’ crime throughout the nineteenth century, was central to the Criminal Tribes system from the 1871 Act’s creation of roll-calls and pass laws. The restriction of movement and specification of living space was accompanied by regimes of physical discipline and punishment. Again, these measures came from the traditional set of penal enforcement mechanisms, with labour (soft or hard), corporal punishment, and transportation available as punishments for transgressions of settlement or CTA rules. Of interest in this case, though, is the trajectory over time – as the accounts of criminality shifted from the biological to the socioeconomic, and as the rationale for the settlements moved from disciplinary control to reformation and re-moulding of the way of life, we also see whipping as a punishment drop out of the CTA’s available tools as of the 1911 Act. The regulation and management of time was no doubt present to an extent in the industrial prisons of the late Thuggee regime, but appears to have been taken to a new level of systematisation in the Criminal Tribes administration. I have presented evidence, particularly from Salvation Army-run settlements, that the hours of each day, and the days of each week, were strictly structured and planned by settlement administrators and filled with activities conducive to the creation of the ideal Indian peasant.

²⁶⁶ The detailed argument for the ‘labour turn’ will follow in Chapter Four, pp. 298-306.

I identified the normative transference of behavioural and occupational standards as a key method of control, with hygiene, dress, and food standards (among others) forming an essential part of settlement socialisation. In this respect, I further noted a transition to positive reinforcement and incentivisation in the approach of authorities towards achieving this transference as a departure from traditionally disciplinary/physically coercive methods of behaviour modification. Equally positive, in this sense, was the method of agricultural and industrial production tuition, in order to meet the wider objective of integrating the Tribes into the idealised vision for India's future colonial economy. Another contribution to the goal of integration was the drive towards 'wider institutional normalisation', bringing private property ownership, wage labour, shops, schools, hospitals, and Western leisure activities into the daily lives of settlement dwellers. The final method of control to be discussed in this section was family incarceration and the separation of children for reformatory education. I found significant differences between policy actors in this regard, with the Salvation Army and private employers in particular having very different ideas about optimal family arrangements, reflecting the different ends they had in mind for the system as a whole, 'reclamation' of communities versus control over reservoirs of coerced labour.

Overall, the intention of this discussion has been to highlight the ways in which the range of control methods, and their development over the lifetime of the Criminal Tribes system(s), demonstrates the latter's roots in British and Indian responses to crime but also reaches beyond them to create an approach to control as distinctive and ambitious as the objectives it was to serve.

Chapter Three conclusion

This chapter represents my attempt to achieve the more equitable balance between political theory and history that motivates this thesis. Chapters One and Two delivered two readings of biopolitical theory – the ‘common core’ of concerns around which the vast majority of biopolitical thinkers converge, and the ‘Agambenian’ model based on those areas of Agamben’s biopolitics that are relatively distinct from the rest of the field. For both models, I have argued that my background in political theory has allowed us to develop models of biopolitics at a greater level of theoretical sophistication than is usually the case when the concept is applied in historical studies. This chapter complements that gesture towards a more theoretically-informed model of biopolitics for use in history, by developing a deeper engagement with historical investigation than usually found in biopolitical theory. This aim of this chapter was to introduce, and to examine in detail, the historical case study with which we seek to demonstrate the value of this approach, the ‘Criminal Tribes’ system of British India.

The chapter opened with a summary of key themes that I have identified in the history and historiography surrounding the Criminal Tribes Acts and settlements, arguing for five distinctive, though not exclusive, themes around which many of the works in the field can be argued to cohere:

- ‘Administrative literature’ – primary sources which offer accounts of the exceptional challenge that hereditary/habitual criminality was thought to pose to the colonial order;

- ‘Ideological’ accounts – scholarship that sees the Criminal Tribes system as a blunt imposition of imperial power on Indian communities, underpinned by ‘orientalist’ ideology;
- ‘Institutional’ accounts – sources seeking to account for the development of the CT system as a response to the historical contingencies thrown up by the attempt to establish the institutions of colonial power in India;
- ‘Sociological’ accounts – that identify environmental, social, and cultural underpinnings for the phenomena apprehended by colonial authorities as hereditary criminality;
- ‘Economic’ accounts – whose main theme is demonstrating a firmer, materialist foundation for both the phenomenon of ‘Criminal Tribes’ and its response in the unintended economic shocks of imperial development.

With this short review acting as a general introduction to the topic and an indication of the concerns and tenor of much of the existing commentary, I used this discussion to bring out an important point of distinction between these sources and our own project. Rather than offering accounts of the *why* and *how* of the development and operation of the Criminal Tribes system, I positioned this thesis as a contribution to the ‘*why of the how*’, an effort to better understand how the toolkit that typified the British response to the phenomenon of the Criminal Tribes with such a distinctive set of objectives and methods. The remainder of this chapter worked to identify and contextualise those objectives and methods, prior to our application of both a general and Agambenian biopolitical frame to them in our next, and final, chapter.

As a preliminary to the discussion of objectives and methods, I first laid out the precursors to the Criminal Tribes system. Through a brief examination of anti-dacoity measures under the East India Company, the *Thuggee* panic and response, and the Punjab Regulations of 1856, I showed that two distinct trajectories met and combined in the Criminal Tribes Acts. Firstly, a tendency towards accounts of *communal* crime and guilt, which built from collective/gang guilt in the anti-dacoity measures but mutated into genealogical, and ultimately, biological notions of criminality and guilt by the time the first CTA was passed in 1871. I also identified how the same precursors can show the escalation of exceptional responses – responses often outside of the established legal framework, and typified by movement restrictions, physical discipline, and the transition, under the *Thuggee* administration, to the idea of forced settlements for families centred around the corrective potential of labour. It is clear that the very distinctive hallmarks of the Criminal Tribes administration had not developed *ex nihilo*, but must rather be seen in the context of the century long evolution of the discourse of exceptional challenge to colonial power, and in the development of an equivalent range of exceptional responses.

The discussion of the acts of Criminal Tribes legislation themselves focused upon the three most significant of the Criminal Tribes Acts – the original 1871 Act, its 1897 Amendment, and the 1911 Act that expanded the system to the entirety of British India. I identified those clauses of particular importance in establishing the characteristics of the system that are of interest to this thesis, and further sought to indicate where these clauses were amenable to biopolitical readings, either under the terms of our ‘common core’ model, or as instances of a particularly Agambenian tenor. This analysis showed multiple areas of overlap between the clauses within the legislation and the interpretative tools provided by perspectives derived from biopolitical theory.

The main discussion in this chapter focused upon the objectives and methods deployed within the Criminal Tribes settlements system. I identified five objectives of the settlements system as a whole:

- Disciplinary control
- Instilling habits of agriculture, industry, and property
- ‘Reclamation’, and inter-generational reform
- The reclamation and cultivation of areas of wasteland
- The generation and integration of productive labour

I also argued for seven distinctive methods by which those objectives were to be met:

- Movement restrictions
- Regimes of physical discipline and punishment
- Regulation and management of time
- ‘Normative transference’ of preferred standards of behaviour and occupation
- Tuition in agricultural and industrial production
- Wider institutional normalisation – property relations, retail and financial institutions
- Family incarceration, and the separation of children for reformatory education

Whilst these readings of objective and methods did indicate where elements of the two biopolitical models developed in our earlier chapters could be seen to apply to each point, the balance of emphasis in this chapter was on setting out the historical material that I will seek to analyse via the application of both general and Agambenian biopolitical perspectives in the next chapter.

This chapter has been intended to offer the reader a useful introduction to a historical phenomenon that is still in great need of further study (whether from a biopolitical perspective or not), as much important historical and theoretical work remains to be done on the Criminal Tribes system. In relation to this thesis, I intend this case study to work as a demonstration of the depth of historical detail that can be delivered in a work of political theory and shown to be of value to both historical and theoretical scholarship around the subject.

What remains for this project is to take the material of this historical case study, and to read it in the context of the two models of biopolitics that I have established in earlier chapters. By doing so, I will show the applicability of the 'common core' model of Foucault-derived biopolitics. This application is itself a precursor to the main work of this thesis, which is the further application of the Agambenian model, drawn from the book *Homo Sacer*, and our demonstration that the latter model offers a more cohesive and convincing account for the development and operation of the Criminal Tribes system than the former. It is to this final sequence of this project that we now turn.

Chapter Four: Biopolitics and the Criminal Tribes System

The concluding chapter of this case study will build on the historical evidence presented in Chapter Three to make the case that the Criminal Tribes legislation and settlement system built around it can be usefully analysed through the general frame of biopolitics (our 'common core' model) and, even more fruitfully, by the application of Agamben's biopolitics.

In applying a general biopolitical frame to the analysis of the Criminal Tribes system, I will be looking to discern historical indicators of the following four characteristics of our 'common core' model:

- 'Control of bodies'
- 'Population as object'
- 'Politics as spatial administration'
- 'Epistemic foundations'

To make the argument that Agamben's biopolitics provides a fuller and more coherent account of the design and operation of the CT system, I will be looking for historical indications of the following five distinctively Agambenian concepts:

- 'Bare life'
- 'Regimes of Exception'
- 'The Camp'
- 'Trajectories of Escalation'
- 'Form of Life'

The structure of this chapter is three-fold. First, to consider point-by-point, each of the four points of the 'common core' model, and to identify the ways in which we believe that the

Criminal Tribes system maps onto each. That will be followed by the further application of Agamben to the CT system, in the form of a discussion of the points of intersection between the historical phenomenon and the five points of the 'Agambenian' model set out in Chapter Two. Finally, in a gesture towards an area of inquiry revealed during the course of this analysis but requiring elaboration on its own merits in future work, I will argue for the concept of the 'Labour Turn' in the history of the Criminal Tribes settlements system. I will argue that the system as a whole appears to have undergone a distinctive three-stage transition, from punitive measure of control, to the reformatory approach of reconstructive biopolitics, but then increasingly into a system centred upon the economic potential and the exploitation of Criminal Tribes as a source of cheap and involuntary labour.

4.1 Application of the 'common core' model

4.1.1 'Control of bodies'

The first characteristic of the traditional, Foucault-derived biopolitical model that opened this thesis was 'control of bodies'. I argued that Foucault's account of power, and those biopolitical theories developed from his work, share in common the premise that power targets and acts directly upon the individual, biological human body. With the historical survey completed in Chapter Three, I will now make the case that 'control of bodies' can be discerned as a principal motivating factor and common operational technique of the Criminal Tribes system. Firstly, I will identify those parts of the Criminal Tribes legislation discussed earlier that can be specifically read as targeting the body. This will be followed by the argument that 'control of bodies' is historically legible in our case study in four respects; in bodily discipline as both an aim and method of control in the CT settlements; in the prominence of the non-physical disciplines of movement restrictions and time regulation; in

the emphasis upon standardisation/normalisation of dress and presentation; and finally, in the fact that the creation and integration of the productive labour capacity of the Criminal Tribes remained a consistent motivation and concern of administrators. As in each of the sections that follow, this will close with a brief restatement of, and comparison to, the 'historical indicators' that I identified for each point of the two models over the course of the first two chapters.

In the Criminal Tribes legislation, a number of clauses appear to directly target the bodies of those that the Acts allow to be declared hereditary criminals. Firstly, the 1871 Act specifies the range of physical punishments for infractions within settlements which, at the time, included whipping. Whipping and transportation remain part of the mix when the punishments for infractions are intensified in the 1897 Amendment.¹ Finally, the 1911 Act introduces finger-printing into the CT system, and establishes the use of timed roll-calls to establish a physical boundary outside of which it is impossible for the individual to move without risking the punishments already mentioned.² Each of these clauses within the main Criminal Tribes Acts clearly target the body and ensure the physical control and obedience of the bodies under their power, or, in Foucauldian terms, rendering them 'docile'.

In the specific context of the CT system, I note again Rachel Tolen's analysis of physical and institutional apparatuses of Criminal Tribes settlements as targeted directly at 'the bodies of criminal tribesmen'.³ In the context of this case study, Tolen's remark can be read alongside Mark Brown's analysis of CT legislation as aimed at disciplinary control as opposed to criminal punishment to build the case that Foucauldian discipline, that is, power targeted and acting

¹ See pp. 199-200.

² See pp. 202-203.

³ Tolen, R. 'Colonizing and Transforming the Criminal Tribesman: The Salvation Army in India', in *American Ethnologist*, Vol. 18, no. 1 (Feb 1991), 106-125. 113.

upon individual bodies, is clearly present in this example.⁴ Jagjeet Lally's analysis of the CT settlements further reinforces this claim, marking the very direct targeting of the '*individual colonial subject*' (his emphasis) through the CT system's emphasis on reformatory/corrective labour.⁵

There is also the discipline inherent in the restriction and regulation of time and movement. I describe these as 'non-physical' insofar as they do not directly impact the individual body, in the same way as corporal punishments or forced labour can be seen to, but instead seek to circumscribe the capacity of that body for moving through a non-physical dimension. This is, of course, still very much a fundamental characteristic of Foucauldian discipline.⁶ We have also seen that movement restrictions were an integral part of the Criminal Tribes system since the original 1871 Act, with the first 'settlements' being areas within which CTs were allowed to be present rather than the physical institutions that later became the main settlement form.⁷ The heavy regulation of time, as laid out in administrative documents like the *Bengal Criminal Tribes Administration Manual*, and discussed in the secondary literature by Tolen and Radhakrishna, speak to the importance that of control over time within the CT system.⁸

It is important to recall that, for Foucault, discipline (one of the two fundamental poles of his overall concept of biopolitics), was fundamentally directed at the creation of both docile and *productive* bodies.⁹ In this discussion of the Criminal Tribes system as a system for the 'control of bodies', the economic horizon of the system must also be recognised. In this case study, I

⁴ See 3.4.2, section 'Objective: Disciplinary control', pp.214-215.

⁵ See 3.4.3, section 'Method: Regimes of physical discipline and punishment', p. 225.

⁶ Discussed in 'Control of bodies', pp.40-41.

⁷ See 3.3.1 (Clause 13 of CTA 1871), p.194

⁸ See 3.4.3, section 'Method: Regulation of time', pp.226-228.

⁹ Section 1.1 'Control of bodies', pp. 40-41. I did, of course, join the critique of Hardt and Negri that Foucault's economic emphasis is insufficient for properly conceiving of biopolitics as a systemic whole (see pp.18-19) . It does remain, however, a necessary and important component, as evidenced by this discussion.

noted how the creation and integration of the potential 'productive labour' represented by the Criminal Tribes was a motivating objective for the design and operation of the system.¹⁰

This focus on labour, which is always the labour of individual bodies, was one of the principal reasons for Mark Brown's analysis of the Criminal Tribes system as one with a scale of ambition far beyond the previous carceral and punitive approaches that had preceded it.¹¹

To conclude on this point, the Criminal Tribes system can be said to employ an approach that biopolitical theory recognises as one of its 'common core' components, 'control of bodies'. I have shown that the body of a member of a 'Criminal Tribe' is targeted directly in a number of clauses in the legislative acts themselves, as well as being both physically and non-physically targeted and impacted by the intensive regulation of movement and time. This is clear evidence of the application of the concept of Foucauldian discipline, made all the more legible when read in the context of the motivating idea of the creation and use of the bodies of those within CT settlements as new labour capacity that runs through the system.

In the opening discussion of 'control of bodies', I suggested two 'historical indicators' for the presence of the phenomenon in a historical case study. They were that the governing power in any particular historical case explicitly identifies the discipline, coercion, or even enhancement of the individual bodies under its control as a key objective or measure of progress; and that we might find examples of physical bodies being used to disrupt or otherwise resist the application of administrative power. I argue that the first of these indicators can be demonstrated to be fully met in the case of the Criminal Tribes system. The second is somewhat beyond the scope of this thesis, which is focused on the legislation and

¹⁰ See 3.4.2, section 'Objective: Productive labour and its integration', pp.221-222.

¹¹ Brown, M. 'Race, Science and the Construction of Native Criminality in Colonial India', in *Theoretical Criminology*; Vol 5 (3), 2001, 345-368. 362.

institutional architecture of the settlements system, and strikes me as an important and potentially fruitful area of study for scholars in the future. I am in a position to neither claim nor refute its presence in this present study, but must record that I have found no evidence for it in my current reading. On the basis of the preceding discussion, I conclude that sufficient evidence for the first indicator exists to identify ‘control of bodies’ as a major motivating factor in the design and operation of the CT system to be clearly made.

4.1.2 ‘Population as Object’

The emergence of population as a cohesive phenomenon, with collective attributes and characteristics, disclosed through advances in demographic practices, is also the emergence of population as an object capable of being managed – the development which opens up the horizon of policy responses that Foucault would recognise as biopolitics, and Agamben as an important part of the toolkit of modern biopolitics.

Here, I will note three points of intersection between this part of the ‘common core’ model and the Criminal Tribes system; firstly, I will place the Criminal Tribes in the wider context of population classification practices in British India; secondly, I will note the inclusion of Criminal Tribes as separate objects for enumeration in the Indian Census from 1911, thus effecting a representational excision of Criminal Tribes from the wider population; finally, I will relate the response to Criminal Tribes to the creation of British authorities’ class and tribal alliances with other sections of the Indian population. These points will demonstrate that the British approach to the Indian population is consistent with the ‘population-as-object’ thesis – in seeking to quantify and classify the population as a whole, in determining which subdivisions of the quantified population will become the bases for ‘divide and rule’ class/tribe

alliances, and for confirming the Criminal Tribes as a separate object for measurement and management.

The drive to quantify the population of India, and to schematise its structure and sub-divisions has been treated by subsequent scholarship as a political process as much as a technical one. For Cohn, the use of this 'enumerative modality' is not merely the creation of an object of control, but is a fundamental starting-point for the creation of British power in India.¹² He argues for the development of the Indian census as part of the Government response to the 1857 rebellion, and as both an instrument for deepening knowledge of the people under their control ('...names...age, occupation, caste, religion literacy, place of birth, and current residence') and as a benchmark for measuring the 'progress' of British administration over time.¹³ Of particular interest to this investigation is Cohn's wider enumerative hypothesis:

...that what was entailed in the construction of census operations was the creation of social categories by which India was ordered for administrative purposes.¹⁴

Susan Bayly concurs on the role of 1857 in forcing the British authorities to consider new modes of rule, built upon the classifications and divisions within the Indian population. In her *Caste, Society and Politics in India*, she argues that the near-death experience for British power on the subcontinent led to an expansion and formalisation of control and surveillance measures, and prompted India's new (i.e. post-Company) rulers to 'pursue the quest for social knowledge' in a different way to previously established practices.¹⁵

¹² Cohn, B. *Colonialism and Its Forms of Knowledge* (Princeton; Princeton University Press, 1996). 8.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ Bayly, S. 'Caste, Society and Politics in India from the Eighteenth Century to the Modern Age', in *The New Cambridge History of India*, IV,3 (Cambridge: Cambridge University Press, 1999).119-121.

Both Bayly and Cohn have identified a significant change in the approach and objectives of knowledge production in nineteenth-century India with the protection and permanence of British rule in India firmly in mind as an object of epistemic endeavour after the 1857 rebellion and transition to direct rule. It is in that context that we can see the deployment of tools, like the India census, that allow colonial administrators to apprehend the Indian population as an object capable of management, and further capable of sub-division for the purposes of more effective rule. It is against this wider background of the drive towards classification of the Indian population, that the work on identifying and managing India's Criminal Tribes takes place.

Further evidence of the drive toward classification can be discerned in the repeated attempts to sub-classify the Criminal Tribes population itself. For example, Booth-Tucker's distinction between two types of adult CT settlement resident, the 'badmash' (criminal/unreformed), and the 'nekmash' (CT member who has changed their behaviour in line with Salvation Army/British normative standards).¹⁶ This division was formalised through the issuing of certificates of 'nekmash' status which, as we have seen, entitled the bearer to a more relaxed set of regulatory conditions within the settlement.¹⁷ This division was internalised to the extent that Booth-Tucker reports children in one settlement turning it into a song:

"One of the most touching scenes was when several of the young girls sang together a new song of their own composition, describing the work that was being carried out in the settlement. The chorus was: "We are Nekmashes, you must know! If you doubt it, you can see our certificates!"¹⁸

¹⁶ Booth-Tucker, F. 'The Criminal Tribes of India', in *Social Problems in Solution* (St Albans; Campfield Press, c.1923). 128.

¹⁷ In 3.4.3, section 'Method: Regulation of time', p.228.

¹⁸ Booth-Tucker, F. *Muktifauj, or forty years with the Salvation Army in India and Ceylon* (London; Marshall Brothers Ltd, c.1930). 212.

Evidence of sub-classificatory regimes exist elsewhere in the administrative literature. For example, in Griffiths' scheme of three categories of settlement resident subject to different sets of restrictions.¹⁹

Whilst these are both examples of classification according to behaviour, there were also sub-divisions within the CT population according to each community's extent of settlement and occupation. When the 1911 Bill was being introduced at the Council of the Governor-General, Council Member John L. Jenkins made the distinction between three kinds of Criminal Tribe; those generally settled and with legitimate ways of making a living, with a few bad individuals within them; the settled tribes that still raid places far from home; and the vagrant and predatory tribes that wander and terrorise the wider population.²⁰ For each of these categories, Jenkins found appropriate provisions in the new (expanded and intensified) version of the CTA being debated.²¹

Whilst my interest, for the purposes of this thesis, is concentrated in the political and sociological sub-divisions of the Indian population by British authorities, it is important to acknowledge the extensive ethnological and biological classifications, carried out under what we now recognise as the pseudo-scientific framework of nineteenth-century race-science. For example, the ways in which colonialists and administrators like Edgar Thurston and Herbert Risely used anthropometrics, such as head and nose measurements, to separate and identify different 'races' within the Indian population.²² In Risely's case, seven different 'types' of Indian were to be distinguished from variations in an "Orbito-nasal" index of the relative

¹⁹ In 3.4.3, section 'Method: Movement restrictions', p.224.

²⁰ Jenkins, J. L., 'Comments on the introduction (1st reading) of Bill at Simla, 22 July 1910', in *Criminal Tribes Act 1911*. British Library, India Office Records, IOR/L/PJ/6/981, File 86.

²¹ *Ibid.*

²² Discussed at 3.1.1 'Administrative literature', pp.154-155.

flatness of an individual's face.²³ Taking Risely as representative of the genre, we can see how the colonial ethnology of caste and tribe was conceived as a further exercise in sub-division and rigorous classification. Simhadri notes Risely's laboured descriptions of the differences between 'tribe' and 'caste', centred around customs of endogamy, occupation, and genealogical narratives of origin and descent.²⁴

It is also worth noting that this more reductive, biological exercise in sub-classification was not only part of the wider Indian context, but was also present in the administrative literature surrounding the Criminal Tribes. Typical of the tone of administrative enquiry here is MacMunn:

"All that is really known [about the Criminal Tribes of India] is that they are an entirely distinct race from the ordinary inhabitants of India, and also from the settled aboriginal stock as known to-day, who inhabit the more wooded and wilder regions of the interior..."²⁵

MacMunn goes on to suggest that a "careful anthropological study with cephalic indices" would be necessary to ascertain exactly where these Tribes may have originated.²⁶ In a similar style, and writing in the late 1940s as the CT system was approaching its end, Bhargava opens his examination of the Criminal Tribes with analyses of cephalic (head-shape), linguistic, and serological (blood-types) distinctions between Tribes, a demonstration of the endurance of biological classification as an organising principle of CT discourse.²⁷ The discussion of the administrative literature in Chapter Three also included the example of E. J. Gunthorpe's extensive sub-divisions of Criminal Tribes in Bombay, Berar, and the Central Provinces.²⁸

²³ Risely, H. *The People of India* (Calcutta; Thatcher, Spink and Co., 1908). 21.

²⁴ Simhadri, Y. C. *The Ex-Criminal Tribes of India* (New Delhi; National Publishing House, 1979). 2.

²⁵ MacMunn, G. *The Underworld of India*. (London; Jarrolds, 1932). 145.

²⁶ *Ibid.*

²⁷ Bhargava, B. S. *The Criminal Tribes* (Lucknow; Universal Publishers, 1949). vii-viii.

²⁸ See pp.153-154.

The culmination of the drive to classification is, of course, the India Census, which presented the raw data of Empire across the subcontinent from 1881-1941. The census disclosed population as an object for management by colonial administrators, clarifying the numbers of individuals under the control of provincial governments and being immediately deployed in the interests of large-scale government initiatives, such as famine relief and public health policies.²⁹ The Criminal Tribes were recognised as a separate demographic category from the 1911 census onwards.³⁰ Kapadia argues that this inclusion (which also functions symbolically as an *excision* from the main body of the population within the census) confirms “that these people constitute a category distinct from the rest of the population in the eyes of the government.”³¹

The creation of the Indian population as an object capable of management, with all of its concomitant classifications, categorisations, and sub-divisions, accompanied a strategy of British rule in India based upon ‘divide and rule’ and class alliances. Sandria Freitag argues that the legal and social order of the Raj developed as an amalgam of British values and those of the Indian “conservative, agrarian elite”, the sedentary “stratum of landholding society” that British policy sought to co-opt as (junior) partners in Indian rule.³² One of the consequences for communities whose ways of life, customs, and values, were already in conflict with those of the native landlord class, was their further marginalisation and

²⁹ Alborn, T. ‘Age and Empire in the Indian Census’, in *The Journal of Interdisciplinary History*, Vol. 30, No. 1 (Summer, 1999), 61-89. 69-70.

³⁰ Simhadri, *The Ex-Criminal Tribes*, 8. Although figures for CT population were available in the Punjab from 1891 (see Major, A. ‘State and Criminal Tribes in Colonial Punjab: Surveillance, control and reclamation of the ‘dangerous classes’, in *Modern Asian Studies*, Vol. 33, No. 3 (July, 1999), 657-688. 670-671).

³¹ Kapadia, K. M. ‘The Criminal Tribes of India’, in *Sociological Bulletin*, Vol 1., No. 2 (1952). 99-125. 99.

³² Freitag, S. ‘Crime in the social order of north India’, in *Modern Asian Studies*. Vol. 25, No. 2 (May 1991), 227-261. 229.

stigmatisation, ultimately gaining the force of law and criminalising communities outside of the imperial-landlord alliance.³³

Meena Radhakrishna examined the role of this ruling alliance in relation to the development of the Criminal Tribes system. In *Dishonoured by History*, she explains the wider currents of anti-nomadism that have conditioned the antipathy of sedentary communities throughout history, including the landholding class of nineteenth-century India:

“[nomadic and itinerant people] are seen as escaping from the arm of the law or simply fleeing from hard work of any kind. In agriculture-based societies, the men resent the fact that gypsies escape the hard work of ploughing and tilling; and the women resent the gypsy’ freedom from...the drudgery of housekeeping and child-rearing. Itinerancy is not seen as a chosen way of life, but as an aberration.”³⁴

This pre-existing antipathy is compounded, Radhakrishna argues elsewhere, in the development of the Criminal Tribes system, when that same landlord class begins to see the potential for coercing individuals into agricultural labour on their land.³⁵ In addition to constituting a particular incentive for local landowners to co-operate in the identification, proclamation, and settlement of Criminal Tribes in their areas, this also prefigures the ‘labour turn’ to exploitative employment practices that became a wider feature of the CT system, and which will be discussed in more detail at the close of this chapter.

In sum, I have made three arguments for the Criminal Tribes system as an example of ‘population-as-object’. I identified the historical context of British India’s drive towards enumeration, classification, and sub-division of the Indian population – a process which, just

³³ Freitag, ‘Crime in the social order of north India’, 241-242.

³⁴ Radhakrishna, M. *Dishonoured By History: ‘Criminal Tribes’ and British Colonial Policy* (revised ed.) (Hyderabad; Orient Blackswan, 2008). 10.

³⁵ Radhakrishna, M. ‘Surveillance and settlements under the Criminal Tribes Act in Madras’, in *The Indian Economic and Social History Review*, 29, 2 (1992), 171-198. 172.

as it had in Britain over preceding centuries, allowed government to apprehend ‘population’ as a discrete and distinctive object, capable of administration. I noted that the segregation of the Criminal Tribes from the general object of the Indian population was reflected from 1911 onwards in their separate entries in the India Census. Finally, I examined one of the strategic end-points of this process of classification and categorisation – the sub-division of the Indian population, and a hegemonic class alliance between British rulers and a small sub-set of that population, in the form of a political alliance with the existing landholding elite. This traces in outline the development of the Indian population as an object of administration, and the creation of Criminal Tribes as a separable and segregated element within it.

In Chapter One, I identified three potential historical indicators for ‘population as object’. First, the use of censuses and other forms of demographic classification as part of a ‘population management’ strategy of the governing power. This is clearly reflected in the work on the Indian censuses and the categorisation of the Criminal Tribes that I have mentioned. The second was the sub-division and classification of groups within the overall population. Again, there is ample evidence of this in the case of the Criminal Tribes system, separated CTs from the wider, ‘legitimate’ Indian population, and further, introducing caesurae between different ‘types’ of Criminal Tribes. Finally, I argued that a concern with the collective ‘form of life’ of a population is also a useful historical indicator. There will be more discussion of ‘form of life’ in the section on Agamben’s politics that follows.³⁶ Here, it is sufficient to acknowledge that there is a clear notion of a Foucauldian population (a body that is more than the aggregate sum of its individual parts) at work in the governance of the CT system, and that a clear understanding of the ‘correct’ way of life for the Indian population

³⁶ Section 4.2.5 ‘Form of life’, pp.290-298.

(and to which, Criminal tribes, by their nature, neither conform nor respect) runs through the ideology behind the legislation and settlements system.

4.1.3 'Politics as spatial administration'

To make the case for the Criminal Tribes system's use of the 'politics-as-spatial-administration' approach laid out in Chapter One, I will first look at the spatial components of the CTA's precursors, particularly the 'Bombay regulations' of the 1820s, and the 'Punjab regulations' in the 1850s. This leads on to the examination of examples of the treatment of space and movement within space present in the administrative literature. Finally, I will show how the spatial aspect of Criminal Tribes legislation and settlements has been discussed in later scholarship.

In Chapter Three, I laid out the development of the characteristics which would come to define the Criminal Tribes Acts as they gradually came together over the 100 years prior to the first CTA.³⁷ Early evidence of a spatial approach to colonial governance in India can be seen in the legislation known as the 'Bombay Regulations' of 1827. Here, the spatial approach is presented in the negative form of movement restrictions and roll-call requirements that establish a *de facto* zone of enclosure, insofar as registered individuals cannot physically travel beyond a distance that allows return to the reporting locations within the specified time.³⁸ A more systematic approach to setting spatial boundaries within which 'problematic' tribes could be held is a defining feature of the CTA's immediate precursor, the 'Punjab Regulations' of 1856, which established 'reservations' for three local tribes until being struck down as

³⁷ Section 3.2 'Legal developments and precursors, 1772-1871', pp.177-191.

³⁸ A full copy of a 'Section 27 Notice' issued under the Bombay Regulations is available in Government of Bombay, 'Letter no. 7075, 19 Dec 1904' (Letter from District Magistrate of Bijapur, K R Bromani, to CHA Hill, Acting Secretary to Govt of Bombay, re: management of the Chapperbands). Government of India, *Criminal Tribes Act 1911*. British Library, India Office Records, IOR/L/PJ/6/981, File 86. Radhakrishna examines the *de facto* spatial control inherent to roll-call practices in *Dishonoured By History*, 60.

unlawful in the late 1860s.³⁹ These two cases demonstrate the increasing salience of spatial approaches to the control of local populations over the course of the nineteenth-century.⁴⁰

Evidence for spatial thinking in the administrative literature is clear from the earliest stages of the Criminal Tribes Acts, with James F Stephen simultaneously voicing concerns about the potential for “police oppression” in the movement and passporting provisions,⁴¹ whilst also voicing approval for the physical settlement of Criminal Tribes onto “waste ground” in order to encourage its cultivation.⁴²

In the secondary literature, Meena Radhakrishna details three distinct elements of the Madras CT settlement system that conform to the concept of ‘politics-as-spatial-administration’. Firstly, the fact of the settlements themselves, and their view among contemporaries as “virtual jails...where CT members could be detained for indefinite periods”, in addition to their comparison to concentration camps when visited by a provincial enquiry committee in the late 1940s.⁴³ Secondly, practices of restricting access to the Madras settlements indicate the importance of the segregation and control of space to their administration:

“If attempts were made by an organisation to visit the settlements even decades after their establishment, permission was refused ‘in the interest of discipline in the settlement’”⁴⁴

³⁹ See 3.2.3, pp.189-190.

⁴⁰ It is worth noting that the development of ‘Thug Factories’ and industrial prisons also reflect the growing use of institutional space, but I have not entered this into the discussion here in order to keep a focus on the distinctive carving out of outdoor spaces. The latter strikes me as more in-keeping with this part of the model, whilst the former can be located in the much wider context of general prison and penal reform.

⁴¹ Stephen, J. ‘Memo no. 48’ (Cover note to Criminal Tribes papers), 2 Feb 1870. Government of India, *Legislative Proceedings, Nov 1871*, in British Library, India Office Records, IOR/P/711. 102.

⁴² Stephen, J. Minutes of meeting 3 Oct 1870. Government of India, *Legislative Council Proceedings 1869-1871* (microfilm), in British Library, India Office Records, IOR 54, Reel 5. 424.

⁴³ Radhakrishna, ‘Surveillance and Settlements...’, 191-192.

⁴⁴ *Ibid.*, 192.

Finally, the same section of Radhakrishna's paper provides evidence for the further sub-division of space within the settlements, in the form of 'enclosures' into which the "really troublesome and desperate" among the settlement population were removed.⁴⁵ The case of these enclosures is of interest, insofar as it offers a view in microcosm of two elements of the biopolitical process of exclusion I am arguing for; namely, the identification and separation of a defined element from a wider population on the basis of their disruptive/unacceptable behaviour, and their removal from the general space of the population into separate, specially designated areas for the application of a different set of punitive and/or reformatory measures. Radhakrishna's position on the settlements as institutions of strict spatial exclusions, and internal gradation of spaces, is supported by Aidan Forth's examination of CT settlements and the administrative literature surrounding their design.⁴⁶

In terms of mapping the Criminal Tribes case to this point of the 'common core' model, we have evidence of the growing importance of spatial thinking to questions of the political administration of challenging/problematic tribes throughout nineteenth-century India, beginning with the use of roll-calls to establish maximum limits on travel, for example in the 1827 Bombay Regulations, through to the designation of geographically-limited 'reservation' spaces in the Punjab Regulations of 1856. I have also shown that the authorities that conceived and created the initial Criminal Tribes legislation, from James Stephen downwards, acknowledged and approved of this spatial element of Criminal Tribes administration. This has also been picked up in the secondary literature, for which Radhakrishna served as an

⁴⁵ *Ibid.*, 191-192.

⁴⁶ Forth, A. *Barbed Wire Imperialism* (Oakland; University of California Press, 2017). 40.

example with her examination of the spaces of the settlements, restrictions on external access, and the microcosm of the 'enclosure' spaces within the settlements themselves.

To conclude, I earlier identified three potential historical indicators for the concept of 'politics as spatial administration'.⁴⁷ The first of these was the division and differential administration of territorially demarcated spaces within states. I argue that the marking out of grounds beyond which a notified tribe is unable to move without punishment is one such example of this demarcation. It is also important to note that the more developed forms of reformatory settlement present in the 'mature' (i.e. post-1911) phase of the system extended over hundreds, in some cases, thousands, of acres. This represents a new stage of formalisation and materialisation of the spatial administration present in the CT system from its inception. The second potential historical indicator was the presence of spatially-defined institutions – institutions for whom the space that they occupy and control is constitutive of both their function and inseparable from their identity. This is perfectly clear in the cases of the agricultural and industrial settlements created under the Criminal Tribes Acts. The third historical indicator derived from Foucauldian biopolitics and the concept of spatial administration is the movement of individuals and groups across the striated and demarcated spaces and institutions to which I have made reference. Here, I argue that the incarceration of as many as 3.5 million people into Criminal Tribes settlements as evidence of the scale of such movements in this particular case. The conclusion of this discussion is therefore that all three historical indicators for 'politics as spatial administration' to have been met within this case study.

⁴⁷ Section 1.3.3, pp.65-67.

4.1.4 Epistemic Foundations

The final point of the 'common core' model of biopolitics is 'epistemic foundations', which, as discussed in Chapter One, relates both to the development of specific forms of knowledge as a precursor and condition of possibility for biopolitical governance, and then the deployment of that knowledge to achieve control of a territory or people. When the latter occurs in the context of subjugating lands and peoples (primarily, though not exclusively, external), I have thought of this as 'epistemic imperialism' or, perhaps more precisely, 'conquest by knowledge production'. This section will examine three aspects of the Criminal Tribes system in order to demonstrate the existence of 'epistemic imperialism' in this case. Firstly how, at the beginning of the system, the concept of Criminal Tribes was bound up with contemporary European theories of hereditary criminality (impacted by developments in the biological sciences of the time), and criminal anthropometry, furnishing pseudo-scientific bases for the imposition of CT status. Secondly, I will identify in the scholarly literature, support for the argument that the wider imperial project in India, of which the Criminal Tribes system is a small but potentially significant part, represents a form of 'conquest by knowledge production'. Finally, I will look at both primary and secondary sources to identify how the misapplication of the idea of 'caste', which is to say the misunderstanding of caste by British authorities and their application of that misunderstanding to Indian administration, formed an important element of the diagnosis of the problem of Criminal Tribes – again, showing how the imposition of knowledge played a central part in the creation and implementation of the CT system.

One prerequisite to understanding the wider context in which the concept of Criminal Tribes was developed is to locate it in the aftermath of the minor epistemic revolution in Europe and North America that followed Darwin's *On the Origin of Species*, and the consequent explosion

of interest in theories of genetics, heredity, and inheritance.⁴⁸ The transition of Darwin's new biological paradigm to social issues such as crime followed soon after, including the development of the disciplines of 'criminal eugenics' and 'criminal anthropology' (the latter term used almost exclusively applied outside of the Western world).⁴⁹ We have already seen that criminal anthropology, and the related discipline of criminal anthropometry (relating innate criminality to the measurement of bodies), formed a key part of the administrative discourse during the development and initial implementation of the Criminal Tribes Act of 1871.⁵⁰ Mark Brown also argues for the importance of the precedent set by William Sleeman's earlier approach to the identification of *Thugs* by the publication of 'genealogical tables' of *Thug* families, an approach he believes establishes a framework within which theories of criminal heredity in India could be realised.⁵¹ Radhakrishna notes that this initial biological and reductive approach to native criminality is not sustained into the mature (i.e. post-CTA 1911) phase of the Criminal Tribes system, as notions of 'reclamation' and the involvement of missionary organisations in the administration of CT settlements become central elements of the settlement apparatus.⁵² However, the impact of (pseudo-)scientific⁵³ theories of criminal heredity, stemming from the Darwinist turn in the European episteme, cannot be overestimated in any account of the creation of Criminal Tribes as an object of administrative attention in post-1857 India.

⁴⁸ See, for example, Anderson, C. *Convicts in the Indian Ocean* (Basingstoke; MacMillan, 2000). 8.

⁴⁹ Nicole Hahn Rafter's *Creating Born Criminals* (Urbana; University of Illinois Press, 1997) surveys the development of this concept in North America from the late nineteenth-century, with some reference to developments in other countries, and serves as a useful introduction to this topic.

⁵⁰ 3.1.1 'Administrative literature', p.155.

⁵¹ Brown, M. 'Race, Science and the Construction of Native Criminality in Colonial India', in *Theoretical Criminology*; Vol 5 (3), 2001, 345-368.

⁵² Radhakrishna, 'Surveillance and Settlements...', 179.

⁵³ Bracketed to reflect that such conclusions were drawn from the best scientific knowledge and methods available at the time. It is only from today's perspective that we can add the prefix 'pseudo-', and we can do so only in the full appreciation and anticipation that future generations may choose to use the same prefix for the science and knowledge we produce and use today!

In establishing the ‘epistemic foundations’ of biopolitics in Chapter One, I argued for the importance of knowledge production as an instrument for imperial conquest for both the British and wider European empires.⁵⁴ The role of knowledge production in the creation of British India is no less significant. Bernard Cohn’s survey of the various techniques of British knowledge production and their imposition onto the material realities of Indian territory, and Indian life, remains the exemplary treatment of the subject.⁵⁵ In a similar vein, Matthew Edney’s work on British cartography in India as a technique for territorial and political appropriation offers an equally compelling account of the processes that we seek to class as ‘epistemic imperialism’:

“...the trigonometrical surveys held the promise of a perfect geographical panopticon. Through their agency, the British thought they might reduce India to a rigidly coherent, geometrically accurate, and uniformly precise imperial space a rational space within which a systematic archive of knowledge about the Indian landscapes and people might be constructed. India...would be made knowable to the British.”⁵⁶

Both Edney and Cohn speak to British rule in India as a form of ‘conquest by knowledge production’, and support for this concept in the particular instance of the Criminal Tribes system can be found throughout CT scholarship.

Any review of Criminal Tribes scholarship seeking to argue for the role of knowledge production as a tool of conquest, must begin with Sanjay Nigam and his adoption of Said’s *Orientalism* (via Ronald Inden) as his framework for understanding British rule in India.⁵⁷ Nigam argues that the “dominating frameworks” of European thought formed the condition

⁵⁴ Discussion of ‘epistemic imperialism’, pp.74-76.

⁵⁵ See, in particular, Cohn’s introduction to the five ‘modalities’ of knowledge by which India was interpreted and fashioned into an object capable of administration. *Colonialism and its forms of knowledge*, 3-11.

⁵⁶ Edney, M. *Mapping an Empire* (Chicago; London: University of Chicago Press, 1997). 319.

⁵⁷ Nigam, ‘Disciplining and Policing...Part 1’, 132-133.

of possibility for Western colonialism, in the form of “projects to change reality”.⁵⁸ By reducing native peoples to essential ‘types’, Nigam continues, colonial epistemology in British India created both the object and discursive legitimation of its rule.⁵⁹ Meena Radhakrishna builds her analysis of the epistemic features of the CT system on the idea that the comprehensive system of tribal and ethnological classifications of ‘criminal’ communities by the British were primarily based on their political pliability, and their submission or resistance to British power.⁶⁰ Mark Brown’s work on the relationship of the nineteenth-century ‘race science’ paradigm and the creation of the Criminal Tribes concept locates the latter’s development against the background of Europe’s epistemic revolution, that began in the late eighteenth century and had posited scientific knowledge and techniques as capable of remaking any and every aspect of human life, whilst also empowering administrations to make use of this new capacity.⁶¹ The application of this science, and its ‘discovery’ of hereditary and innate criminality, was not simply a facet of the Indian colonial experience, but was concomitant with a similar application and ‘discovery’ of inherently criminal communities amongst the British poor.⁶² Rachel Tolen also offers evidence for the contemporaneous development of ‘dangerous classes’ discourse in nineteenth-century Britain with similar characteristics. She also makes clear that the consolidation of imperial power across the subcontinent was “realized...through the consolidation of knowledge about the ruled”, making conquest by knowledge production an essential element for our understanding of the British mode of conquest in India.⁶³ For each of these analysts of the CT

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ Radhakrishna, ‘Surveillance and Settlements...’, 175, fn.14.

⁶¹ Brown, ‘Race Science...’, 346-347.

⁶² *Ibid.*, 346.

⁶³ Tolen, R. ‘Colonizing and Transforming the Criminal Tribesman: The Salvation Army in India’, in *American Ethnologist*, Vol. 18, no. 1 (Feb 1991), 106-125. 108.

system, the development of British 'knowledge' of native criminality and the identification of Criminal Tribes formed a distinctive part of the wider structure of colonial rule.

The final argument I make for the notion of 'epistemic imperialism' in relation to the Criminal Tribes phenomenon is to look at the role of the (mis)application of caste.⁶⁴ I will begin with the primary sources (the 'administrative literature') and show that the idea of caste as a rigidly inflexible system that determines occupation, behaviour, and disposition to crime, forms a conceptual anchor for the Criminal Tribes approach in the administrative literature. I will then show that the secondary scholarship problematises this idea of caste, and argues that the administrative misunderstanding of caste resulted in the application of a different concept of caste, which ultimately became a reality through its application by colonial authorities.⁶⁵

A perfect representation of the colonial concept of caste is offered by Sir George MacMunn in his *Underworld of India*, which sketches an inflexible social structure of indeterminate historical origin:

Caste is the essential part of every Hindu's personal make-up, and the one thing about him that he knows to be all-essential to him in this life, and the lives that are to follow.

[...]

When we marvel at the force and rigidity of caste we may perhaps realize that it, and perhaps it alone, has kept society in India from entire disintegration during the centuries of conquest and invasion...⁶⁶

Herbert Risely's description of caste puts emphasis on the restrictions inherent to the system, describing how caste makes "accident of birth" the sole determinant of each individual's

⁶⁴ With the caveat that space precludes an in-depth analysis of the historical development of the concept of caste, which is told in the fullness of its complexity and detail by Susan Bayly in her *Caste, Society and Politics in India* (see bibliography for details). Of particular interest for our area of study is Chapter Three.

⁶⁵ Hence, the choice of the term '(mis)application of caste' for this element of our argument.

⁶⁶ MacMunn, *The Underworld of India*, 19-24.

entire life, from the food they eat and clothes they wear, through the people they are able to marry, and throughout every other aspect of life, through to their death.⁶⁷

The presence of this concept of caste in the Criminal Tribes administrative literature is evident throughout, and a few examples will suffice. The most (in)famous among them belongs to William Nembhard, writing in response to the Government of India's consultation on the potential creation of a Criminal Tribes Act, in his capacity as Commissioner of East Berar, in Hyderabad:

...a family of carpenters now will be a family of carpenters a century or five centuries hence...so will grain dealers, blacksmiths, leather-makers, and every other known trade.⁶⁸

The implication of the caste system for criminal communities in India is therefore clear:

It means a tribe whose ancestors were criminals from time immemorial, who are by the usages of caste to commit crime, and whose descendants will be offenders against the law, until the whole tribe is exterminated or accounted for in the manner of the Thugs.⁶⁹

Nembhard's characterisation of caste-based criminality was influential enough to be quoted at length by James F. Stephen when he introduced the first Criminal Tribes legislation into the Legislative Council in October 1870.⁷⁰ Similarly, Brigadier Hughes of the Salvation Army opens his reflections on *Life Among Lifers* stating that the caste system makes it impossible for any person to rise to a different occupation or social station.⁷¹ The essentialist, and determinist,

⁶⁷ Risely, 'The People of India', 107.

⁶⁸ Nembhard, W. Letter no. 941, 2 May 1870; in *Government of India Legislative Proceedings, Nov 1871*. British Library; India Office records, IOR/P/711. Item No.62 ('Hyderabad Response'). 132.

⁶⁹ *Ibid.*, 132-133.

⁷⁰ Stephen, J. Minutes of meeting 3 Oct 1870. Government of India, *Legislative Council Proceedings 1869-1871* (microfilm), in British Library, India Office Records, IOR 54, Reel 5. 419-420.

⁷¹ Hughes, A.T. *Life Among Lifers*. Salvation Army International Heritage Centre Archive, IN/2/1. 1.

nature of caste is therefore a central concept for both the original administrative, and the later missionary, powers tasked with identifying and controlling Criminal Tribes.

The secondary literature supports the contention that it is a distinctively British perception of caste that drives colonial policy. For Bhukya, the British notion of caste had been conditioned by a colonial anthropology that reduced caste to a question of occupation, and equated criminality with occupation in cases of communities whose members engaged in practices such as dacoity.⁷² Radhika Singha acknowledges that colonial practices of categorisation “reconstructed caste and community identity with more rigid demarcations”.⁷³ Nigam argues that presenting caste as an “unchanging and constant...entity” whose fixity of identities, occupations, and social roles atrophied the capacity for independent agency among native Indians, was used as an argument for the legitimacy of British rule.⁷⁴ At the same time, Nigam agrees with Cohn that the reduction of Indian subjects to one of a small number of caste-based stereotypes made an attractive proposition for administrators insofar as it appeared to simplify their relationships and interaction with the complex mass of people increasingly under their control.⁷⁵

For Susan Bayly, critiques of British administration and knowledge production as singularly orientalist in approach⁷⁶ risk concealing a more complex reality, in which an essentialising notion of caste was only one of a number of ways in which the phenomena of Indian social structures were perceived.⁷⁷ Bayly does concur, however, that the administrative view of

⁷² Bhukya, B. ‘Delinquent Subjects’: Dacoity and the creation of a surveillance society in Hyderabad State’, in *The Indian Economic and Social History Review*, 44, 2 (2007), 179-212. 185-186.

⁷³ Singha, R. ‘Settle, Mobilize, Verify’, in *Studies in History*, 16, 2 (2000), 152-198. 154.

⁷⁴ Nigam, ‘Disciplining and Policing...Part 1’, 133-134.

⁷⁵ *Ibid.*, 134.

⁷⁶ Of which, we would argue Nigam’s is representative. As is D’Souza (*Branded by Law*. New Delhi; Penguin, 2001.), although the latter is not a traditionally academic work.

⁷⁷ Bayly, ‘Caste, Society and politics...’, 100-103.

caste grew more essentialist in the wake of the 1857 rebellion and in the context of the hegemony of Victorian ethnography and race-science in the later nineteenth-century.⁷⁸

Of particular interest, especially in the context of an argument for ‘epistemic imperialism’, is Bayly’s argument that the British-administrative vision of caste begins to become a reality as a result of its application. As the “four-varna scheme” that divided the majority of the Indian population into one of four castes became dominant in the administrative mindset, it began to be used as a basis for a number of governmental and social activities, such as eligibility conditions for military service.⁷⁹ This led to Indians themselves adopting the British understanding of caste as a technique for securing benefits and career advancement, marking a remarkable transition of the later nineteenth-century British idea of caste from epistemic object into a lived reality for hundreds of millions of people.

In sum, I have argued here for three elements for the Criminal Tribes system, and its wider Indian context, to be considered an example of ‘epistemic imperialism’. We have seen the influence of the nineteenth-century European episteme’s Darwinian revolution, and the development of genetic theories of criminality, upon existing discourses of communal crime during the debates around the implementation of a Criminal Tribes Act. I also argued for the idea of ‘conquest by knowledge production’, citing scholarship on the colonisation of India in general and the Criminal Tribes system in particular, that maintain that British rule was founded upon British ‘knowledge’ of the lands and peoples to be ruled. Finally, I examined how an understanding of caste as essential and inflexible underpinned the idea of Criminal Tribes throughout the administrative literature and that, despite this concept of caste being

⁷⁸ *Ibid.*, 119-120.

⁷⁹ *Ibid.*, 125-126.

contested both at the time and in later scholarship, the concept became, by virtue of its adoption by the ruling order, a lived reality for hundreds of millions of Indian subjects. All three of these phenomena, when taken together, make a compelling argument for the role of 'epistemic imperialism' in the creation of British India and, more importantly for us, in the construction of India's Criminal Tribes.

In Chapter One, I gave an account of the concept of the 'epistemic foundations' of biopolitics. I further argued that, when practiced externally, in the form of 'epistemic imperialism' (or, 'conquest by knowledge production'), it may be possible to discern two historical indicators of practices amounting to it. Firstly, the widespread use of and reliance upon, epistemic practices such as surveying, census-taking, and the data that flows from them, as a basis for decision-making. I argue that this case has been made both in this discussion, and as part of the 'population as object' discussion earlier. The second indicator, specifically in relation to acts of occupation and colonisation, was a political reliance on (pseudo-)scientific language in the language of government, particularly for the justification of political decisions on exclusion, occupation, and the killing of members of indigenous communities. The use of anthropology, anthropometrics, and the discourse surrounding the misapplication of 'caste' are all substantive examples of this phenomenon. In relation to the 'epistemic foundations' of biopolitics, therefore, I argue that the Criminal Tribes system strongly fits the concept of 'epistemic imperialism' that forms one aspect of the wider 'epistemic foundation' of biopolitics.

There is, of course, a further aspect of the 'epistemic foundations' of biopolitics that I laid out in Chapter One, which is the hegemony of health as a frame for government. I also identified two historical indicators for this phenomenon, which were 'pastoral discourse' and focus on

health and hygiene as motivators for government action, and the use of biological paradigms for non-health related aspects of government (crime and disorder as ‘infections’, and so on). I must acknowledge here that neither of these aspects of ‘epistemic foundations’ were found at a sufficient level to satisfy me that they are present in the case of the Criminal Tribes. It is possible to find examples of both within this literature, but I conclude that it would be a stretch to argue that the hegemony of health as a frame for government is present in the CT case study. With that said, the extent to which we can detect ‘epistemic imperialism’ at work in the case study is sufficient for me to conclude that the phenomenon I have described as ‘epistemic foundations’ can safely be said to be present in this case.

Having argued for the evidence supporting each of the four points of our ‘common core’ model of biopolitical analysis, I now move to discuss the reasons behind our position that the Criminal Tribes system can be best accounted for in terms of a distinctively Agambenian biopolitics. We will proceed to do so through a point by point consideration of the five distinctive elements that makes up the ‘Agambenian model’ that we argued for in Chapter Two.

4.2 Application of the Agambenian model

4.2.1 The Criminal Tribes as ‘bare life’

In Chapter Two, I described how the Agambenian phenomenon of ‘bare life’ can be identified in a case study through the combination of two distinct elements. Firstly, that the life in question is explicitly treated as outside of the *bios* of the (in this case, Indian) people. This can take the form of a political non-belonging,⁸⁰ or the more basic form of *zoe*-fication, treating

⁸⁰ Agamben’s discussion on the constitution of political community in the tension between ‘people’ and a ‘People’ is found at its most concise in his ‘What is a People?’, in Agamben, G. *Means Without End* (Minneapolis; University of Minnesota Press, 2000). 29-36.

the lives concerned as forms of, or closer to, animal life.⁸¹ Secondly, that those lives are caught inside a relationship to the ruling power that shows structural affinities with Agamben's 'sovereign ban'.⁸² I will argue for each in turn.

Radhakrishna noted how colonial anti-nomadism formed a key part of Criminal Tribes discourse, and, in terms of identifying a *bios* of the Indian people, effected their separation from the legitimate, settled order.⁸³ Further evidence for the location of Criminal Tribes outside of the *bios* of Indian life in the Raj can be seen in the administrative literature. For example, MacMunn opens his description of Criminal Tribes by arguing that, in a historical (and biological) sense, they are not Indian at all; rather, some are descended from nomads who left their homes elsewhere "far back in the mists of time" and settled on Indian lands.⁸⁴ MacMunn also makes an interesting argument for considering Criminal Tribesmen outside of the *bios* of Indian tradition:

...they are in most cases entirely outside any recognized or mentionable form of Hinduism, sacrificing and worshipping to strange deities and patron saints...⁸⁵

The British strategy of co-opting elements of the Hindu landowning class as allies in the hegemony of the Raj was also discussed earlier.⁸⁶ Here, and perhaps reflecting how the landowning classes described some of the later-notified nomadic tribes to their allies in the

⁸¹ For *zoe*-fication, Agamben's discussion of the figure of the 'wolf-man' as exemplary of the indistinction between man and animal that remains the fate of those expelled from political community, is useful. *Homo Sacer*, 104-105.

⁸² *Homo Sacer*, 109-111 ("relation of abandonment").

⁸³ Section 4.1.2, p.258.

⁸⁴ MacMunn, *The Underworld of India*, 145.

⁸⁵ *Ibid.*, 144.

⁸⁶ Section 4.1.2, p.258.

British administration,⁸⁷ we see a move to place even those tribes who profess adherence to Hinduism as outside of the religious and political community of which they claim to be a part.

MacMunn also furnishes an example of the second aspect of non-*bios* life, the *zoe*-fication of the people concerned. In addition to arguing for their position outside of all Indian tradition, he completes his thought with the statement that members of Criminal Tribes are “of no more regard than the beasts of the field.”⁸⁸ Comparisons with animal life form a common element in CT administrative literature, with Sir Richard Temple (Government of India), and Cpt. Dennehy (Deputy Inspector-General, North-West Provinces Police), comparing Criminal Tribes to “locusts”.⁸⁹ Further, Radhakrishna cites an anonymous British official telling an officer of the Salvation Army that members of the Criminal Tribes are “just cattle”.⁹⁰ Forth cites a description of Criminal Tribes as “[e]aters of vermin”, and describes CTs being described as “vermin themselves”, in his discussion of the use of hygiene and sanitation discourses in legitimating the concentration of CTs into reformatory settlements.⁹¹

Whether we term it bestialisation, dehumanisation, or, using the more Agambenian formulation of *zoe*-fication, it is clear that the proximity of the lives of the Criminal Tribes to the lives of animals, much closer than to the lives of those communities within the sanctioned *bios* of the Indian people, was a persistent feature of administrative discourse and, therefore, a conditioning element of administrative thought and action.

⁸⁷ See, for example, Tolen, ‘Colonizing and Transforming the Criminal Tribesman...’, 122.

⁸⁸ MacMunn, *The Underworld of India*, 144.

⁸⁹ Temple, R. *India in 1880 (3rd ed.)* (London; John Murray, 1881). 200; Dennehy, ‘Annual Police Report, Deputy Inspector of-General of Police, North-West Provinces, 1868’, Document 73 in *Government of India Legislative Proceedings, Nov. 1871*. British Library, India Office Records, IOR/P/711. 184.

⁹⁰ Radhakrishna, ‘Surveillance and Settlements...’, 195.

⁹¹ Forth, *Barbed Wire Imperialism*, 37.

The second argument for the lives of the Criminal Tribes approximating Agambenian 'bare life', is that their relationship to the ruling power maps onto the Agambenian concept of the 'sovereign ban'. An essential preliminary step toward characterising the relationship between the British administration and the Criminal Tribes as one of a sovereign ban is to establish the former as exercising Agamben's 'sovereign power', as derived from Schmitt. Two aspects are of particular importance; the decision to create the CT system as an exceptional response, located outside of normal legal codes and beyond judicial oversight, which I argue constitutes a decision on, and declaration of, an 'exception' in the case of Criminal Tribes; secondly, and related, the way in which the CTA 1871 establishes the validity of notifications solely by reference to the fact of notification itself.⁹² Similarly, both the application of the CTAs themselves, and the identification of tribes as 'Criminal' under their auspices, are self-grounded, self-legitimising impositions, that confirm the role of British authority as an Agambenian (which is to say, Schmittian) sovereign power in this context.

The second step towards arguing for a relationship of a sovereign ban is to identify the process by which the ban is enacted, which for Agamben involves a process of both stripping away the existing *bios*-life of the individual, their membership of the political community, and their subsequent exposure to the unlimited power of the sovereign to punish and kill them.⁹³ Echoes of this relationship redound within the structure of the CT system. We have seen that Criminal Tribes legislation, as an exceptional response, removes the protections and rights of appeal from individuals, whilst also enabling their indeterminate detention for acts (and even, on *suspicion*, of acts) that are not criminal. This represents one form of the stripping-away of

⁹² Clause six of the CTA 1871, discussed at pp.193-194.

⁹³ The motif of the 'sovereign ban' is discussed at 2.1.2, pp.108-111. Agamben references this process of stripping-away in relation to German Jews as a precursor to removal into camps in *Homo Sacer*, 170-171.

political life (i.e. *bios*), as it erodes the legal personhood established by, and protected through, the limitations of power enacted by the established legal codes.

A second, and more concrete, form of this stripping-away involves cases concerning members of Criminal Tribes who privately-owned pieces of land before their tribes were notified that they had been declared a 'Criminal Tribe'. Radhakrishna charts the almost bewildering process by which, in order to place them in agricultural settlements to be taught how to own and cultivate private smallholdings, some CT members were forced to sell the land that they already owned and worked.⁹⁴ Whilst this may appear at first as an act of bureaucratic vindictiveness, or as cruel irony, those familiar with Agamben's biopolitics will see a deeper resemblance to the sovereign ban. For Agamben, the reduction to bare life, in the form of a programmatic stripping-away of status, rights, and the accoutrements of *bios*-life, is the essential precondition for the transfer of bare life to the camps in modern politics. This explains, for example, the importance for Agamben of the use of (again, exceptional) legal orders for the removal of German citizenship from Jews prior to their deportation to the camps.⁹⁵ It is with both the necessary respect and caution in respect of the latter case that I must advance the argument that these two processes are structurally similar, and are so because they both reflect similar operations of sovereign power. It is in the context of a reduction to bare life, and the subsequent taking of bare life into the sovereign ban, that we should view the logic of the forceful dispossession of lands many CT members were subjected to prior to their incarceration in CT settlements.

⁹⁴ Radhakrishna, *Dishonoured By History*, 100-101.

⁹⁵ Agamben, *Homo Sacer*, 170-171.

This distinctive process is also reflected in the final aspect of the sovereign ban, the exposure of bare life to an unlimited capacity for punishment and death at the hands of the sovereign power.⁹⁶ In an almost-perfect mirror image of the process of land dispossession above, we have the response of Deputy-Secretary to the Commissioner of Oudh, Mr Aitken, to the original consultation on the creation of a Criminal Tribes Act:

In the case of the Kunjurs and the Nuths, who wander about without any fixed residence, it will be necessary to fix them to a residence before they can be punished for leaving such residence.⁹⁷

Whilst this doesn't qualify as a substantive stripping-away, we can still recognise the fixing of a residence, as a precursor to their punishment for leaving it, as a similarly circular operation. Further support for viewing the CT relationship as one typified by a constant exposure to sovereign power can be found in F. C. Griffiths' response to a request for information about the management of the Hur tribe in the early 1900s. Griffiths argues that the greatest instrument for controlling the Hurs would be the threat of deportation to reformatory settlements, which could be hung over their heads like "the sword of Damocles".⁹⁸ Griffiths recognises the importance of *constant exposure* to deportation in regulating the behaviour of a group under his charge.

The final, and perhaps most compelling, argument for the relationship of the sovereign ban, and for the overall constitution of Criminal Tribesmen as examples of bare life, comes from Bhukya's investigation into the condition of the Lambadas in Hyderabad.⁹⁹ Here, he presents

⁹⁶ Agamben *Homo Sacer*, 90.

⁹⁷ Aitken, R. H. M. Letter No. 236, 1st-2nd June 1870. Document 59, in *Government of India Legislative Proceedings, Nov. 1871*. British Library, India Office Records, IOR/P/711. 113.

⁹⁸ Griffiths, F.C. Response to request for information re: management of Hur settlements ('Letter 9-C, 17 Aug 1904'), in, Government of India, *Criminal Tribes Act 1911*. British Library, India Office Records, IOR/L/PJ/6/981, File 86. Para 11.

⁹⁹ Whilst Hyderabad was, as one of the 'Princely States', overseen by a native ruler, Bhukya notes that British methods of classification and policing of perceived criminal communities had been imposed since the 1850s,

evidence that the killing of Lambadas was not only tolerated, but rewarded with cash payments in Hyderabad state.¹⁰⁰ It would be anachronism not to locate this practice in the long-established 'dead or alive' tradition of the outlaw, and the pirate's status as *hostis humani generis*, but neither can we dismiss the appearance of a form of life so closely approximating Agamben's *homo sacer* – bare life that can be killed without committing homicide.

By identifying discourses that put Criminal Tribes outside the *bios* of the Indian people, and that reduce them in administrative estimation to a state closer to animal life, and by arguing for the governing relationship of the CTs to their governing power as one of 'sovereign ban', I conclude that all three of the historical indicators for 'bare life' argued for in Chapter Two are present in this case. Therefore, the lives of those notified, registered, and subjected to the apparatus of Criminal Tribes legislation, can be said to constitute an instance of Agamben's 'bare life'.

4.2.2 Regimes of Exception

In order to argue that the Criminal Tribes system functioned under a 'regime of exception', I will look at three aspects of the legislation and surrounding administrative discourse. Firstly, I will identify the discourse of 'extraordinary crime', established in the East India Company administration of late eighteenth-century India and developed consistently throughout the nineteenth, as immediately placing the phenomenon of Criminal Tribes outside of the established legal order. The second point follows as a logical consequence of the first, insofar as the legislative response to the extraordinary challenge of the Criminal Tribes was also

and continued with the application of the CTA apparatus from the late 1890s. Bhukya, 'Delinquent Subjects' 180, and 195-196.

¹⁰⁰ Bhukya, 'Delinquent Subjects', 202.

placed outside of the established legal code, marking it as a genuine juridical exception. Finally, to confirm the continuing nature of the CTAs' regime of exception over the system's life, I will examine how the prevention of judicial oversight was built into the legislation from its inception, and continued through its entire duration.

We have already seen the way in which the Hastings administration characterised some forms of collective crime in India as so far beyond the experience of crime in England that it required an extraordinary, and often extraordinarily brutal, response.¹⁰¹ Singha describes Article 35 of 1772, which established capital punishment for dacoits and exemplary punishments for the families of dacoits, as a reflection of ongoing tensions in the Company era between the drive towards an "equal and uniform liability to the law" and the perceived need to retain the discretion to treat exceptional cases using different standards of evidence, guilt, and process.¹⁰²

It is as a continuation of the theme of 'extraordinary crime' that we read James Stephen's response to the objection that existing criminal law could address the challenge of Criminal Tribes during the discussions around its inception:

"[Stephen] ...observed that English lawyers and law-courts had a most exaggerated estimate of the power of the ordinary criminal law to cope with organized crime."¹⁰³

In a similar vein, recall Inspector-General of Police in the North-West Province Francis Mayne, who argued that such tribes' "organization [is] so complete...that only special legislation will

¹⁰¹ See section 3.2.1 re: 'Article 35 of 1772', pp.178-180.

¹⁰² Singha, R. *A Despotism of Law* (New Delhi; Oxford University Press, 1998). 29.

¹⁰³ Stephen, J. Minutes of meeting 3 Oct 1870. Government of India, *Legislative Council Proceedings 1869-1871* (microfilm), in British Library, India Office Records, IOR 54, Reel 5. 423.

suffice for their suppression”.¹⁰⁴ In both cases, we have leading figures in the political administration and law enforcement respectively, making the case that the threat posed to the British Indian order is of such novelty and danger that existing criminal law is incapable of addressing it.

The deliberations on the creation of a Criminal Tribes Act show that, from the very beginning, it had been conceived of as an exceptional response, to be deployed outside of the established legal order as represented (from the 1860s onwards) by the Indian Penal Code, and the Code of Criminal Procedures. Elizabeth Kolsky places the Criminal Tribes Act as one of a number of genuinely exceptional apparatuses for the enforcement of order in nineteenth-century India, alongside the Thuggee Act, and the later Murderous Outrages Act.¹⁰⁵ The common thread linking all of these acts, according to Kolsky, is that they “provided the colonial state with expansive and coercive powers not permissible under the Anglo-Indian Codes”.¹⁰⁶ Mark Brown concurs, in his review of the transition from the CTAs to ‘habitual offender’ legislation in post-Independence India, he describes the location of the former outside of established legal codes as its foremost distinctive feature.¹⁰⁷ By creating the CTA as an exceptional regulation in this sense, Brown explains that the British authorities simultaneously relieved the police of the higher standards of evidence required for prosecution under existing penal codes (which had proved problematic for earlier attempts

¹⁰⁴ Mayne, F.O. ‘Proposed Criminal Tribes Bill from Inspector-General of North West Frontier Provinces F. O. Mayne’, letter 2303, 28 May 1867; in *Government of India Legislative Proceedings Nov 1871*. British Library; India Office records, IOR/P/711. Item No.57. 106.

¹⁰⁵ Kolsky, E. ‘The Colonial Rule of Law and the Legal Regime of Exception: Frontier “Fanaticism” and State Violence in British India’, in *American Historical Review*, Vol 120, No 4 (October 2015). 1218-1246. 1230 (inc. fn.49)

¹⁰⁶ *Ibid.*

¹⁰⁷ Brown, M. ‘Postcolonial penalty: Liberty and repression in the shadow of independence, India c. 1947’, in *Theoretical Criminology*, 21 (2), 2016. 186-208. 192.

to prosecute dacoity and similar crimes), and also allowed for restrictions and punishments to be levied against individuals for acts that were not technically a crime.¹⁰⁸

Both Kolsky and Brown argue for the importance of reading the Criminal Tribes Act in its proper context as a piece of extraordinary, or exceptional, legislation – enabling the sovereign power (in this case, the British-Indian administration) to subject individuals, whose actions do not constitute a crime under existing law, to punitive, disciplinary, and regulatory measures, often in excess of those prescribed by established law. Aidan Forth cites the work of Laleh Khalili, a political scientist who sets out an argument for understanding a ‘liberal state of exception’ as one in which special legislation is enacted for a specific circumstance or in application to a particular group, which has the effect of the *de facto* suspension of the application of the legal order to that case – creating an exception with the outward trappings of legal form and process.¹⁰⁹ This is an important theory and one that substantially reinforces the position that the Criminal Tribes legislation is fundamentally exceptional in nature.

The final point we will consider in the argument for the Criminal Tribes system as a ‘regime of exception’ is the deliberate exclusion of the Act’s provisions from judicial oversight. We have already seen that the CTA explicitly prevents any court from reviewing notifications of Criminal Tribes through Clause Six, which establishes that the fact of notification is itself “conclusive proof” that the notification is warranted.¹¹⁰ Whilst this is clearly an attempt to forestall the kind of judicial review that invalidated the Punjab Regulations of 1856 and led to the original creation of the CTA, it also has the effect of ensuring the process of notification is

¹⁰⁸ *Ibid.*, 191-192.

¹⁰⁹ Forth, *Barbed Wire Imperialism*, 39.

¹¹⁰ Clause six of the CTA 1871, discussed at pp.193-194.

legally exceptional. Andrew Major corroborates this in his description of the creation and implementation of the first Criminal Tribes Act, noting its lack of the right to appeal.¹¹¹

It is important to bear in mind here the relationship of this state of affairs to the Schmittian model of sovereign power that forms one of the fundamental bases for Agamben's biopolitics. Slavoj Žižek describes Schmitt's decisionist model of sovereign power as founded upon an 'abyssal act of violence...which is grounded in itself', all of whose acts are legitimised solely by the fact of their happening, that is 'self-referentially posited by [the] act itself'.¹¹² This parallel opens the ground upon which the Criminal Tribes notification process can be viewed as a fully Schmittian, and therefore also Agambenian, operation of sovereign power in the form of an exception.¹¹³

The first historical indicator for a 'regime of exception' that I derived from Agamben's politics was discursive. It focused on the presence of a discourse on the impossibility of integrating an individual or group into the 'normal' life that under the protection of the established legal order. In the discussions surrounding the creation of the Criminal Tribes Act, I have shown the way in which the challenge of the perceived ways of life of these tribes were thought of as far beyond the pale of acceptable life to colonial administrators. We have also seen that, in response to the exceptional challenge of unassimilable life, the Criminal Tribes system was conceived from the beginning as an exceptional response. The discourse of 'extraordinary crime', a recurrent aspect of British policy in India since the days of Company rule, facilitated the drive to establish Criminal Tribes legislation as a punitive and disciplinary apparatus

¹¹¹ Major, A. 'State and Criminal Tribes in Colonial Punjab: Surveillance, control and reclamation of the 'dangerous classes', in *Modern Asian Studies*, Vol. 33, No. 3 (July, 1999), 657-688. 668-669.

¹¹² Žižek, S. 'Carl Schmitt and the Age of Post-Politics', in Mouffe, C. (ed.), *The Challenge of Carl Schmitt*, London; Verso, 1999. 18. Agamben's adoption of Schmitt in this regard is established in *Homo Sacer*, 15-17.

¹¹³ See Agamben, *Homo Sacer*, 18-19.

outside of the established British-Indian legal codes. The explicit prevention of judicial oversight and appeal adds further evidence that setting the CT system outside of the normal operation of law was an intentional goal of the administration. This puts the Criminal Tribes system firmly under the description of a 'deviation' from established legal codes and procedures, that I identified as the second historical indicator of an Agambenian 'regime of exception'. Therefore, the creation of the Criminal Tribes Act itself can be seen to function as a declaration of an exception, into which individuals whose way of life was taken to be unassimilable to a proposed/idealised *bios* of colonial life could then be moved by the act of notification. Both the declaration and the settlements system were put beyond the reach of judicial oversight, making the system a 'regime of exception' in the Agambenian sense.

4.2.3 Criminal Tribes settlements as Agambenian 'Camps'

To argue for the approximation of Criminal Tribes settlements to the Agambenian 'camp', it is necessary to demonstrate, firstly, that the CT settlements were spaces of localised exception, set apart from the normal legal order; and secondly, that the settlements functioned as institutions for the inscription of bare life into the sovereign order.

As a prelude to the theoretical discussion of settlements as 'camps', however, it is instructive to note that both the primary and secondary literature feature references to CT settlements as concentration camps. In his description of the 'model convict settlement', Brig. Arthur Hughes says of the Criminal Tribes:

There are three million of them in India, and the government have tried for many years to reform them by a system of concentration camps and settlements.¹¹⁴

¹¹⁴ Hughes, A. 'A Model Convict Settlement' (typescript), in *Papers of Brigadier Arthur Hughes, c. 1934-1940*. Salvation Army International Heritage Centre, IN/2/1. 8-9.

Written in the late 1930s, Hughes' description is simultaneously a reflection of the acceptability of the language of concentration camps in political-administrative discourse prior to the Second World War, and an indication that those involved in the running of settlements very much saw them as institutions serving a similar function. After the war, however, the comparison began to be made by opponents of the settlement system, with explicit reference to the resemblance of CT settlements to Nazi concentration camps made by an official (provincial) enquiry.¹¹⁵ Examples of the comparison in later literature include D'Souza's description of CT settlements as concentration camps in his *Branded By Law*, and Forth, for whom the appearance of camps throughout the British Empire, including Criminal Tribes settlements, is the central case for his *Empire of Camps* analysis.¹¹⁶

The case for viewing CT settlements as spaces of, in Agamben's parlance, 'localised exception' has been made recently enough here for anything more than a brief re-statement to risk a fruitless duplication.¹¹⁷ To recap, we have seen that the legislation governing the creation and administration of CT settlements had, from the beginning, been placed outside of the established legal codes, and we supported Khalili's perceptive analysis of this act as a 'liberal state of exception'. Secondly, we discussed the foreclosure of judicial oversight and legal appeal from the moment of notification, further placing those incarcerated in CT settlements outside of legal standing within, and protection from, the normal juridical order. Finally, we have seen the rigorous access restrictions that typified the boundaries of CT settlements.

¹¹⁵ Ayippan, A. *Report on the Socio-economic Conditions of Aboriginal Tribes of the Province of Madras* (1946). Cited in Radhakrishna, 'Surveillance and Settlements...', 192, and Schwarz, H. *Constructing the Criminal Tribe in Colonial India* (Malden, MA: Wiley-Blackwell, 2010). 91-92.

¹¹⁶ D'Souza, *Branded by Law*, 46; and Forth, *Barbed Wire Imperialism*, 37-38.

¹¹⁷ Section 2.2.1, pp.120-121. Also, cf. *Homo Sacer*, 168-169 (Camps as an exception transmuted into a "permanent spatial arrangement").

Each of these aspects of the settlement system speaks to their existence as a form of Agambenian camp, which he describes as both “a piece of land placed outside the normal juridical order but...not simply an external space” and “the materialization of a space in which bare life and the juridical rule enter into a threshold of indistinction”.¹¹⁸

The second aspect of the Agambenian camp we must consider is its distinctive function, characterised in *Homo Sacer* as the inscription of bare life into the political order.¹¹⁹ This case departs somewhat from the instances Agamben focuses upon, insofar as I identify a *reconstructive* biopolitics that aims towards the subsequent assimilation of the (reformed) Criminal Tribes into the *bios* of British Indian life. This forces the CT settlements system outside of the Nazi concentration camps of *Homo Sacer*, where bare life was abandoned until either it, or the sovereign power targeting it, would cease to exist. This means that there is a different, but equally clear, movement towards the inscription of life into political order in the CT settlements:

It is sincerely hoped that our people will so *get their roots down into the life here*...that they will not want to rove again when their sentence is over.¹²⁰

This, from the Salvation Army's Brig. Hughes encapsulates the reformatory and reconstructive approach of the settlements programme under the mature phase of CT administration. It also shows us the grounds for seeing such institutions as sites of a double inscription in the Agambenian sense. Firstly, that the settlements exist as a location in which the bare life of the Criminal Tribes, which has no place in the political community/*bios* of the Raj, is contained and, analogous to Agamben's examples, is kept in a form of 'inclusive exclusion' relative to

¹¹⁸ Agamben, *Homo Sacer*, 169-170.

¹¹⁹ Agamben, *Homo Sacer*, 175.

¹²⁰ Hughes, 'Life Among Lifers...', 7-8. (My emphasis).

the rest of British-Indian society. Secondly, in the reconstructive biopolitics of the settlements, we also see the preparation for a final inscription – the one in which the fully reconstituted individual, re-crosses the threshold of the camp, to take their place as a settled and sedentary agricultural producer, following the British vision for the people of their Indian empire. This second inscription, which takes the form of the award (or perhaps, assumption) of *bios*-life, finally inscribes the individual into the ‘normal’ order and ends the application of the exception/sovereign ban to their particular case.

The argument for the approximation of the Criminal Tribes settlements to Agamben’s ‘camps’ has therefore been made on the grounds of the two ‘historical indicators’ that I set out in the corresponding section of Chapter Two.¹²¹ Firstly, that the location of the settlements outside of the established legal order, governed by procedures and standards of evidence radically different to the ones which subjects of the ‘normal’ order (the *bios*-life of the British-Indian people) are treated, marks the settlements as a localised, spatial exception – a central component to Agamben’s definition of a camp. Secondly, I argued for CT settlements as sites for the inscription of bare life into the sovereign order, and shown that the inscription function in our example goes significantly beyond that of Agamben’s example of Nazi concentration camps whilst retaining characteristics amenable to this Agambenian reading.

4.2.4 Trajectories of Escalation

The fourth point of the Agambenian model is ‘trajectories of escalation’, which I argued combines two distinct modalities – the expansion of the number of people subject to the intervention in question, and the intensification of the measures to which those within the

¹²¹ Section 2.3.3 ‘Historical indicators’, pp.118-119.

system are exposed. Here, I will briefly make the case that the Criminal Tribes system demonstrates both tendencies.

The potential for the expansion of the numbers covered by the Criminal Tribes Act has shown to have been inherent from the start. Meena Radhakrishna explains that the wording enabled this process in two ways. Firstly, a notification which identified a group based on a known camping place (Radhakrishna's "category by residence"), immediately allowed British authorities to similarly notify any other group that may be camping, or simply resting, near the same location.¹²² The second potential for expansion ("category by profession") allowed a notification against a group associated with a particular profession to be used as the basis for notifications against other groups practicing similar lines of work. As Radhakrishna notes, tribes often combined multiple professions to make a living, meaning that "[t]he scope of the category could be widened almost without any limit", and describes how these categories:

"...endlessly open in themselves, stretching across districts and linguistic regions, [meant] the groups of people classified under one category could be used to implicate crime groupings under another."¹²³

In this way, it is possible to see that the grounds for the virtually perpetual expansion of these measures were already contained within the original body of the CTA 1871.

Andrew Major goes on to show how, almost immediately, Criminal Tribes legislation went on to be applied to increasing numbers of communities, leading to "progressively more, not fewer...people stigmatized and hence denied elementary human rights."¹²⁴ The later expansion of the numbers of individuals covered by Criminal Tribes legislation is both dramatic and well-documented. Mark Brown notes how the system grew from an initial

¹²² Radhakrishna, 'Surveillance and Settlements...', 174.

¹²³ *Ibid.*, 174-175.

¹²⁴ Major, 'State and Criminal Tribes...', 658-659.

application to hundreds of individuals in the 1870s, to millions of Indians at the system's peak.¹²⁵ This is supported by Simhadri, who quotes a figure of 3.5 million people belonging to Criminal Tribes in 1949.¹²⁶ In our section on the 'labour turn', we will see evidence that some tribes were notified as a result of their proximity to industrial concerns in which they could then be coercively employed, further expanding the number of individuals covered by the CTAs. Finally, it is worth noting that Aidan Forth's observation that Criminal Tribes legislation was also used against "nationalist agitators" in the interwar years, another group that the system expanded to include in its apparatus of control.¹²⁷

Given the extensive work earlier in this chapter detailing the methods of control present in the settlement system at its height, only a few words are needed here on the intensification of measures. It will be recalled that the original 1871 Act contained very little in terms of the reconstructive biopolitics that is a principal interest of our investigation. The 1871 Act and the initial settlements that were opened under its auspices were primarily penal in nature, with an emphasis on the physical control of Tribespeople through movement restrictions, registration procedures, roll-call and movement, pass measures and so on.¹²⁸

The argument for intensification of measures can be made by comparison of that earlier system with the full reformatory apparatus of the settlements in the post-1911 system, where measures had expanded to include agricultural and industrial tuition, normative transference of behaviour and hygiene standards, and the wider institutional normalisation of elements including private property ownership, wage labour, banks and savings, leisure activities,

¹²⁵ Brown, 'Postcolonial Penalty...', 190-191.

¹²⁶ Simhadri, *The Ex-Criminal Tribes...*, 8. Simhadri cites the same source for CT population numbers (*The Report of the Criminal Tribes Act Enquiry Committee*, 1949) as Kapadia's 'The Criminal Tribes of India', 124, n.1.

¹²⁷ Forth, *Barbed Wire Imperialism*, 37.

¹²⁸ See section 3.3.1 (CTA 1871), pp.192-196. See also, Nigam, S. 'Disciplining and policing the 'criminals by birth', Part 1', in *The Indian Economic and Social History Review*, 27 (2), 1990, 131-164. 142-143.

clinics, etc.¹²⁹ My argument here is that the transition from the restrictive approach centred on physical incarceration, to the later reconstructive approach focused on the breaking and re-making of individuals' and communities' ways of life, qualifies the Criminal Tribes system as a clear example of the intensification of measures that can be accounted for under the 'trajectories of escalation' concept.

Both historical indicators for the 'trajectories of escalation' are clearly present in any diachronic study of the design, operation, and development of the Criminal Tribes system. Firstly, the continuing expansion of notifications under the Act to cover ever more individuals and groups, not to mention its geographical expansion to encompass all of British India in 1911. Secondly, I demonstrated the distinctive intensification of the measures to which those incarcerated in CT camps were subjected – for example, in the move from simple movement restrictions to the full 'reconstructive' biopolitics of agricultural/industrial tuition, normative transference, and wider institutional normalisation – all of which sought to effect change at a deeper level than the initial anti-nomadic movement restrictions that formed the main outcome of the 1871 Act.

4.2.5 'Form of Life'

In Chapter Two, I argued that one of the distinctive features of Agamben's biopolitics is his concern with the concept of 'form of life'. For Agamben, this concept is a central object of societies and states throughout Western political history. It represents the *bios* of a particular society, the way of life of the particular political community that is the referent object of the constitution of a state and the principal target of sovereign power. We recall that sovereign power *produces* this form of life and its principal vocation is to protect and refine it through

¹²⁹ These features have all been discussed at some length in Chapter Three, section: 'Method: Wider institutional normalisation', pp.233-236.

the identification and elimination of any life that poses a threat to its *bios*. This is where the Agambenian distinction between ‘People’ and ‘people’ proved useful as a shorthand.

To make the argument for something approximating ‘form of life’ to be at work in the design and administration of the Criminal Tribes system, I will seek to show that the CT apparatus was engaged in the process of defining and creating a new Indian nation with a new Indian People as its referent object,¹³⁰ that it was concerned with, in a phrase taken from Agamben’s analysis in *Homo Sacer*, ‘giving form to the life of a people’;¹³¹ and, finally, that it represented one of the functions by which the *bios* of the British-Indian people was to be maintained and refined through a biopolitical process of continuous acts of excision and assimilation.¹³²

The concept of ‘reclamation’ in the case study had two principal components; the reclamation of people, in the form of the reconstructed Criminal Tribes, who would go on to effect the reclamation of the ‘wastelands’ of the Indian Empire. The distinctive vision of the idealised Indian colonial subject as smallholding agricultural producer is intimately linked to this imagined role of bringing extensive, new land into cultivation – the importance of which for the CT approach has been discussed here, and is comprehensively treated by Radhakrishna in *Dishonoured By History*.¹³³ In this way, both bodies and land were to be brought into use, in the service of the creation of a new, British India. It is possible to hear echoes of this function in the work of the Salvation Army’s Commissioner Baugh, reflecting on the success of both aspects of his ‘reclamation’ mission at a settlement under his administration:

¹³⁰ Here, again, I am employing Agamben’s useful method of distinguishing a ‘People’, capitalised, as those members of a constituted political community, and the ‘people’ as the undifferentiated mass of non-members of the community, often the poorest, the marginalised, and the otherwise unwelcome/unassimilable. See Agamben, ‘What is a People?’, *Means Without End*, 31-32.

¹³¹ Agamben’s chapter on this distinctive biopolitical injunction can be found in *Homo Sacer*, 144-153.

¹³² *Homo Sacer*, 131, and 178.

¹³³ See 3.4.2, section ‘Objective: Reclamation and cultivation of wasteland’, pp.219-221; Radhakrishna, *Dishonoured By History*, Ch.4 and 99-101 in particular.

On the horizon is an avenue of lofty trees that marks the course of the canal. The land is intersected by the distributaries that carry water to every part of the land. Engineering skill and the toil of the cultivator are producing bumper crops where a few years ago there was only sandy desert.¹³⁴

Baugh argues that, if only it were possible to quantify precisely the economic costs and losses that could be ascribed to Criminal Tribes' activity in the past, against the productivity and new opportunities of the reconstructed Tribes in the settlements, then 'it could be demonstrated arithmetically that valuable, constructive *nation-building* work is being performed among the Criminal Tribes'.¹³⁵

A further quantification of Britain's attempt to forge the Criminal Tribes into the body of a loyal, British-Indian People, is offered by Joseph. In his review of Criminal Tribes administration in Punjab in 1918, he notes that a total of 2,017 individual CT members had enlisted in the British-Indian army and served in the First World War.¹³⁶

The reconfiguration of land and bodies into a new Indian people also involved the minting of a British idea of Indian 'tradition', which elements of the imperial administration set themselves the task of (re)creating. Clare Anderson builds on Tolen's identification of this attempted reconstruction in her discussion of Salvation Army enforcement of dress and ornamentation codes in settlements under their control.¹³⁷ Tolen goes on to place the Criminal Tribes system not only in a context of British nation- (and therefore, People-) building in India, but as a glimpse of a vision for a new spatiotemporal foundation for the entirety of

¹³⁴ Baugh, C. 'The Criminal Tribes Work in India, as an Economic Experiment' (typescript, 1930), Salvation Army International Heritage Centre, IW/2/1. 4.

¹³⁵ *Ibid.* (My emphasis)

¹³⁶ Joseph, E. 'Review of the report of the Deputy Commissioner for Criminal Tribes on the administration of the tribes during the year 1918' (document 'No. 1553-s', 1919), in, Government of Punjab, *Report on the Administration of Criminal Tribes in the Punjab for the Year Ending December 1918*. British Library, India Office Records, IOR/V/24/633. 1.

¹³⁷ Anderson, C. *Legible Bodies: Race, Criminality and Colonialism in South Asia* (Oxford; Berg, 2004). 130. See also, Tolen, 'Colonizing and Transforming the Criminal Tribesman...' 120.

Britain's global empire.¹³⁸ Whilst Tolen's claim deserves a deeper investigation than it appears to have so far received in contemporary scholarship, it is beyond the scope of our purposes in this thesis. However, both Tolen and Anderson reinforce the claim, alongside the primary evidence from Baugh, that Britain's approach to the Criminal Tribes maintained a crucial nation-building, and People-building, component.

To argue for the CT apparatus as comparable to Agamben's example of the biopolitical injunction 'giving form to the life of a people', I will further recap evidence for the settlements as sites for the remoulding of people into a shape consistent with the society (and the *bios*-life) they were subsequently expected to enter; I will give examples from the secondary literature of behavioural, institutional, and economic remoulding of the Criminal Tribes; and end on the note of their perceived transformation.

That the CT settlements, and particularly the missionary settlements of the Salvation Army, were designed and intended to effect the remoulding of the 'form of life' of entire peoples is foundational to our argument, and has been discussed in its applied aspects earlier.¹³⁹ In the primary literature, note that MacMunn considered the Salvation Army's role in operating the settlements to be the production of "happy and settled citizens".¹⁴⁰ From the secondary literature, David Arnold's survey of rural crime in Madras similarly emphasises the "systematic remoulding of a great number of very diverse castes and tribes" that followed the implementation of CTA 1911 across the Presidency.¹⁴¹

¹³⁸ Tolen, 'Colonizing and Transforming the Criminal Tribesman...', 122.

¹³⁹ For example, 'Objective: 'Reclamation' and inter-generational reform', pp.217-219.

¹⁴⁰ MacMunn, *The Underworld of India*, 148.

¹⁴¹ Arnold, D. 'Dacoity and Rural Crime in Madras, 1860-1940', in *The Journal of Peasant Studies*, 6:2 (1979). 140-167. 149.

My examination of the settlements system in Chapter Three has already staked much of the ground for understanding the nature of the reconstruction of Criminal Tribes members within the CT system. In the context of ‘giving form to the life of a people’, I wish to quickly recap three of the major aspects of this reformation, the behavioural, institutional, and economic. For the behavioural configuration, recall Mark Brown’s quintessential description of the “proper virtues required of native subjects” into which individuals in the settlements were to be remade, emphasising a range of hygiene, behavioural, and social norms that formed the precondition for inclusion in British-Indian society.¹⁴²

I have also discussed the curious, and comprehensive, ‘wider institutional normalisation’ present in the settlements’ introduction of banks, clinics, wage-labour, Western leisure activities, and so on.¹⁴³ Tolen goes further, and outlines the range of institutions, familiar to the people of nineteenth-century Britain, that the Salvation Army set about creating across India:

The Salvation Army set about an iconic replication of the structures and practices of institutional types conceived in Britain. Leper colonies, hospitals, homes for women, boys’ industrial homes, beggars’ homes, vagrants’ colonies, dispensaries, orphans’ homes, village schools and boarding schools...¹⁴⁴

We can see from this quote that the institutional normalisation present in the settlements was a microcosm of the wider Salvation Army programme for building a new way of life for the people of India across the subcontinent. Nevertheless, the use of the captive CT

¹⁴² Brown, ‘Colonial History and Theories of the Present’, in Godfrey and Dunstall (eds.) *Crime and Empire 1840-1940*. 87. The description referred to has been reproduced in full in the ‘ideological theme’ section of 3.1 (pp.161-164), and the detailed argument for CT behaviour change is in 3.4.3 (‘Methods of control...’) section on ‘normative transference’, pp.228-231.

¹⁴³ See 3.4.3, section: ‘Method: Wider institutional normalisation’, pp.233-236.

¹⁴⁴ Tolen, ‘Colonizing and Transforming the Criminal Tribesman’, 116.

population remains an acute demonstration of the ambitions and techniques of the colonisers to shape a new 'form of life' into which those held within the system could be moulded.

Finally, Lally offers a view of the centrality of economic production as a form of rehabilitation for the Criminal Tribes. Placing CT reformatory practices in the context of an attempt to revive Indian sericulture (another attempt to recreate a largely imagined version of Indian 'tradition'), Lally demonstrates the practice of re-rooting the way of life of CTs into the Indian order through the re-engineering of their economic life.¹⁴⁵ I will return to the issue of economic production and the CT system shortly, in the discussion of the 'Labour turn' that closes this chapter.

As we have seen, the CT system was developed (post-1911) to achieve a profound change in the lives of those who were moved into the settlements system. As one contemporary observer remarked in 1917 Punjab, "their mode of living [has] been entirely changed...the younger generation has been brought under a healthy influence".¹⁴⁶ Anecdotal as this is,¹⁴⁷ it is telling that 'mode of life' is the phrase used in describing the CT work in Punjab.

The evidence presented here gives an account of the CT apparatus as one which, from inception (though with a changing scale of ambition), had the remoulding of Criminal Tribes' way of life as its primary object. This developed after 1911, and particularly in the Salvation Army camps, into a comprehensive attempt to re-structure the lives of the people subject to the CT system, mirroring wider processes at work throughout India. We have seen

¹⁴⁵ Lally, J. 'Crafting colonial anxieties: Silk and the Salvation Army in British India, circa 1900-1920', in *Modern Asian Studies*, 50, 3 (2016), 765-807. 770.

¹⁴⁶ Kaul, H. *Report on the Administration of Criminal Tribes in the Punjab for the Year Ending December 1918*. British Library, India Office Records, IOR/V/24/633. 2.

¹⁴⁷ There are multiple anecdotal and statistical examples of the failure of the CT reclamation project. For this analysis, however, 'success' and 'failure' in this sense (however defined) is somewhat tangential. The object of our analysis is a legislative, disciplinary, and reformatory system – its design, the process of its enactment, and the potential for this to be accounted for in terms of the application of Agamben's biopolitics.

behavioural, institutional, and economic aspects of life rebuilt to a form appropriate, in the administrative mindset, for the new People of British India. An account of the Criminal Tribes as an example of 'giving form to the life of a people' is one that can safely be made, and is fruitful to pursue.

Finally, it remains to be noted that Agamben's biopolitics involves a process of creating and maintaining a *bios* (that is, the 'form of life' appropriate to a 'People' in the Agambenian sense) through the continual excision of others. In the preceding discussion of the 'Trajectories of Escalation' of the Criminal Tribes legislation, I demonstrated that the CT system was applied to an ever-increasing number of groups over its lifetime. Beginning with a small number of communities in North India, expanding during the course of its post-1911 India-wide application, and ultimately moving even beyond groups thought to be engaged in criminal activity to sweep up tribes who happened to live in proximity to industrial concerns, and to individuals involved in anti-British protest and agitation movements. This expansion is a clear example of the process described by Agamben, where the removal of one group from the *bios* of a People does not successfully constitute said People but rather compels ever more identifications and separations of other elements that do not belong.¹⁴⁸

In Chapter Two, I argued for two historical indicators to determine the presence of a 'form of life' concern in a given historical case study.¹⁴⁹ The first was evidence of governmental interventions that move beyond the traditionally biopolitical schemes of public health, individual fitness, eugenics, economic production, and so on, and appears to directly address those non-material elements of *bios*-life that could be described as value-driven. Under this

¹⁴⁸ See 2.5.1 ('*Bios*'/'form of life' ...), pp.127-129.

¹⁴⁹ Section 2.5.3, p.130.

description, I argued for the particular significance of intervention into the non-working time of people that appears to aim at something beyond the stable reproduction of labour-power. This indicator has been met in the case of the Criminal Tribes system by evidence of interventions designed to normalise dress and ornamentation, and to familiarise settlement inmates with institutions like banks, clinics, and amateur dramatics. These measures indicate much more than a materialist concern for economic production, it is about the active construction of a way of life – which we have labelled ‘reconstructive biopolitics’ throughout this thesis. This leads directly to the second indicator, which is the presence of an Agambenian concept of a ‘People’, that is, the *bios*-life of the legitimate community and the referent object of the political order. Here, the case is necessarily ambiguous. There is clearly an attempt to construct something like a *bios* of the legitimate Indian peasant in the ideology and material practices of the CT system. In that sense, the indicator is satisfied. Where the issue becomes more difficult is in its colonial context. Given that the Criminal Tribes system was a programme for the creation of an idealised form of peasant life, it is unclear whether this can properly be accorded the term *bios*. In the Indian case, the referent object of the political order is clearly the collective life of the colonisers and, perhaps, their native allies in the colonial elite. Put simply, at no point in the ‘reclamation’ process would any member of a Criminal Tribe reach a status that approximates that of a citizen (in the sense of “We, the People...”). This is a question which will need to be taken up in more length elsewhere. For the purposes of this study, the programme of *non-material* shaping that I have shown took place in the settlements system, is sufficient to argue that a concern for a distinctively Agambenian concept of ‘form of life’ is indeed present in the history of the Criminal Tribes system.

Overall, the evidence presented in each of these cases has demonstrated that the five characteristics that make Giorgio Agamben’s biopolitics distinct from the traditional ‘common

core' concerns of post-Foucauldian biopolitics are present in the history of the Criminal Tribes system. On that basis, I conclude categorically that a reading of the Criminal Tribes system as an example of Agambenian biopolitics is fundamentally analytically sound and worthy of further examination.

4.3 The 'Labour Turn'

This final section of the chapter reflects on how my biopolitical analysis of the Criminal Tribes system led me to identify three distinct phases in the CT system, with differing apparent objectives, and that the final form of the CT system abandoned the biopolitical management and reconstruction of the ways of life of inmates in favour of a primarily expropriative, labour-focused mode of operation.

The argument for a 'labour turn' in the Criminal Tribes administration is twofold. Firstly, I will lay out the evidence that the logic of economic exploitation of the Criminal Tribes as a potential source of labour grew in significance over the lifetime of the system, to the point that it became a motivating element for the identification and incarceration of people under CT legislation. Secondly, I will move on to discuss why this is important for the biopolitical reading of the CT apparatus, highlighting the apparent connection between Agambenian biopolitics and the use and abuse of labour.¹⁵⁰

This section will open by looking at the fact that the administration of the CT system was located under the Department(s) of Labour; that the literature shows an increasing economic logic within the CT system as it enters its 'reclamation' phase; that both primary and

¹⁵⁰ An area of study that formed the basis of my earlier M.A. (by research) thesis *Labour and Life: On the Foundations of Agamben's Biopolitics* (Durham, 2009: <https://library.dur.ac.uk/record=b2436025~S1>). The main original argument there, a structural similarity and potential connection between key concepts in Agamben and Marx, was published as 'The Elephant in the Room: Agamben's 'Bare Life' and Marxist Biopolitics', in *Studies in Marxism* (Journal of the Political Studies Association's Marxism Specialist Group), vol. 13 (2012). (AAM: <http://dro.dur.ac.uk/23760/>).

secondary literature contain examples of the transition of the system to one centred upon economic exploitation; and, finally, that this aspect of the CT apparatus became so significant, that it caused major complications for the Government of India's ratification of the International Labor Organization's convention on forced labour in the 1930s.¹⁵¹

The historical turn of the CT settlements system to one in which the control and exploitation of labour, principally to the benefit of private enterprise rather than public works, has been meticulously described by Meena Radhakrishna.¹⁵² Her chapter on the evolution of industrial settlements will be the primary basis for the observations that follow. Radhakrishna describes how discussions about the possibility of using CT members as employees for private enterprises had been taking place in Madras from 1913 onwards, before becoming official policy in 1916.¹⁵³ This move simultaneously sought to address a perceived shortage in industrial labour, and the growing objections of the native landowning classes to the land reclamation and crop production efforts of existing CT agricultural settlements.¹⁵⁴ In Radhakrishna's narrative, it is not long before the tail begins to wag the dog. Factories and other industrial production sites began to be declared as CT 'industrial settlements' for the purposes of incarcerating workers, and private enterprises began giving authorities a description of the labour they required at various locations, with communities living nearby being declared as Criminal Tribes, in order to be moved into the settlement of the industrial premises.¹⁵⁵

¹⁵¹ It is worth noting that Anderson's work on penal transportation identifies a labour as an underpinning criterion throughout that system's life, with settlements proposed and created in locations where it was perceived they would be profitable for the Company (or later, the government). Anderson, 'The British Indian Empire...', 221.

¹⁵² Radhakrishna, *Dishonoured By History*, Ch. 4 'Land Reclamation, Industrial Recruitment and Settlements', 98-126.

¹⁵³ *Ibid.*, 105 (initial discussions, 1913), and 99 (official policy).

¹⁵⁴ *Ibid.*, 110.

¹⁵⁵ *Ibid.*, 107-109.

4.3.1 Criminal Tribes settlements under Indian labour administration

The first observation on the relationship of the Criminal Tribes system to the question of labour is an administrative one. The role of the Department of Labour in overseeing a number of CT settlements is instructive, demonstrating the latter's location beyond the traditional realm of policing and prison agencies, and including a significant labour component. For Rachel Tolen, this location of CT settlements under the aegis of a labour department reflects the close relationship of the Criminal Tribes system to the domestic network of labour colonies within the UK, in which British vagrants were managed by being "enclose[ed]...within a realm of concentrated labor".¹⁵⁶ Elsewhere, Radhakrishna notes that a proposal was drafted in the early 1930s to transfer existing industrial settlements from the Department of Labour to the Inspector-General of Prisons, although the initiative failed under objections from the latter that this would move a population of innocent people into the Indian prisons system proper – a further underlining of the exceptional nature of the CT system overall.¹⁵⁷ These two examples demonstrate that the location of administrative responsibility for CT settlements was an issue that was considered by local governments as a question of labour, and that the continuing role of labour departments in this administration throughout the mature phase of the CT system can be seen as both deliberate and indicative of a constitutive connection between the Criminal Tribes administration and the question of native labour.

4.3.2 Growth of economic motive in settlement administration

Despite their origins as purely disciplinary and control-oriented spaces, it is clear that economic logic entered and increasingly competed with the punitive and reformatory aspects

¹⁵⁶ Tolen, 'Colonizing and Transforming the Criminal Tribesman', 113-114.

¹⁵⁷ Radhakrishna, 'Surveillance and Settlements...', 191 fn.93.

of the Criminal Tribes settlements system in its late phase. Commissioner Baugh of the Salvation Army describes CTs in primarily economic, rather than criminal, terms, arguing that the unreformed Criminal Tribes constituted a double economic drain; firstly, that they did not produce, and therefore paid no taxes, and secondly, that government then incurred the policing expense associated with their non-productive ways of life.¹⁵⁸ Rachel Tolen quotes Commissioner Booth-Tucker's own explanation of the Army's strategy to have CTs only producing the goods that there was genuine economic demand for, and therefore genuine potential for profit.¹⁵⁹ Further, David Arnold notes that confinement into settlements led many CTs to a situation in which:

...they wove mats and baskets, quarried stone, picked tea on hill plantations, tended factory looms, or built railway embankments...transforming erstwhile dacoits and cattle thieves into plantation coolies, factory hands and small farmers – in short, made them a productive part of the new economic order.¹⁶⁰

Radhakrishna also gives us an example of how the economic viability of settlements formed part of the case local officials had to make to government in order to found CT settlements; in the case of the Koravars, this was made with the promise of increasing tax receipts as swamp land was brought into cultivation.¹⁶¹

What these examples indicate is the growing importance of an economic rationale behind the implementation of the Criminal Tribes Acts and their settlements system. No longer simply a system of physically restraining born criminals, it becomes a system for creating tax payers; no longer a system for controlling those who steal and deal in stolen goods, it becomes a system for the production and distribution of additional goods into the growing market

¹⁵⁸ Baugh, 'The Criminal Tribes Work in India...', 1.

¹⁵⁹ Tolen, 'Colonizing and Transforming the Criminal Tribesman', 118.

¹⁶⁰ Arnold, 'Dacoity and Rural Crime...', 153.

¹⁶¹ Radhakrishna, *Dishonoured By History*, 101.

economy; and no longer simply an institutional apparatus of government, it becomes a network of institutions that are increasingly justified on the basis of their likelihood to increase land and goods revenues for local and national government, and generate incomes and profits for both tenants and administrators. It is this economic shift that marks the beginning of the 'labour turn'. However, the turn itself is only made when the CT administration's new economic momentum transforms the presence of an economic rationale into the systemic exploitation of a coerced and captive labour force. I will now consider the evidence for this turn having taken place in the later decades of the Criminal Tribes system.

I have already discussed how tuition in agricultural and industrial production techniques was a key element in the reconstructive biopolitics of Criminal Tribes settlements.¹⁶² It is also the case that the idea of using CTs as a labour force to be employed for private economic use had formed a part of the Salvation Army's vision for CT administration from their earliest involvement.¹⁶³ As the system of industrial settlements widened in the early part of the twentieth century, the perceived benefits of the deployment of CT labour was noted by colonial officials, including Joseph. In his review of the CT administration in Punjab in 1918, Joseph notes with approval the increasing wage-earning capacity of settlement inmates, and a decrease in the stigma of using Criminal Tribe labour among employers.¹⁶⁴ Joseph also gives two examples of the use of CT labour in private economics concerns; the Kala Shah Kaku settlements (a 'semi-agricultural' settlement) supplying agricultural labour to a private

¹⁶² Section 3.4.3 ('Method: Agricultural and industrial tuition'), pp. 231-232.

¹⁶³ Radhakrishna, 'Surveillance and Settlements...', 179-180.

¹⁶⁴ Joseph, E. 'Review of the report of the Deputy Commissioner for Criminal Tribes on the administration of the tribes during the year 1918', in, Government of Punjab, Report on the Administration of Criminal Tribes in the Punjab for the Year Ending December 1918. British Library, India Office Records, IOR/V/24/633. 1.

landowner, and the Moghalpura settlements, developed for the supply of labour to nearby railway workshops.¹⁶⁵

Further examples are offered by Bhukya, including 4,000 Criminal Tribes members brought to the Nizamsagar dam project to provide labour, brought to the construction site under police escort and held in a CT camp set on an island in the middle of the river for the duration of their deployment.¹⁶⁶ Bhukya also describes how 300 members of the Lambada tribe were sent out to labour in Bodhan sugar factory, whilst others were deployed to the coal mines at Kothagudem.¹⁶⁷ Whilst the CT administration was clearly committed to the use of inmates as a labour pool, Bhukya notes that, in the case of Hyderabad, the social stigma attached to the use of CT labour ultimately led to an insufficient take-up.¹⁶⁸ Nevertheless, from an administrative perspective, the line of development is clear.

The picture of industrial settlements and deployments as simply examples of the push toward redemptive or correctional labour, is problematised by Lally's investigation into the Salvation Army's involvement with the Indian silk-production industry. Whilst, at the discursive level, the SA's use of Criminal Tribes' labour was framed as both a rehabilitation of the CTs into legitimate employment and an attempt to rescue a traditionally Indian way of life,¹⁶⁹ Lally identifies a discrepancy in SA practice. In fact, Lally notes that only a relatively small number of individuals were deployed into SA sericulture relative to the number employed in felling timber to be sold by the Salvation Army for their own profit.¹⁷⁰

¹⁶⁵ *Ibid.*

¹⁶⁶ Bhukya, 'Delinquent Subjects...', 208.

¹⁶⁷ Bhukya, 209. To which we must add the famous examples of the ILTD (tobacco) and Parry's (sugar) factories, explored in depth by Radhakrishna *Dishonoured By History*, 108-109 (Parry's), 129-141 (ILTD).

¹⁶⁸ Bhukya, *Ibid.*

¹⁶⁹ Lally, 'Crafting Colonial Anxieties...', 765-766.

¹⁷⁰ Lally, 'Crafting Colonial Anxieties', 771.

A final insight into the degeneration of the CT system into one of naked economic exploitation is offered by Meena Radhakrishna, whose work on this aspect of the Criminal Tribes Act and its associated apparatus in Madras remains exemplary. In *Dishonoured By History*, Radhakrishna notes how the spatial logic of CT administration combined with the sharp economic rationale of the 'labour turn', to produce a system in which Criminal Tribes were physically relocated to areas on the basis of local labour need.¹⁷¹ The advantages of CT labour under this last phase of the CTA were openly acknowledged. With factory supervisors essentially designated as managers of a Criminal Tribes settlement, the management of private enterprises were able to compel CT members to work thirteen hours or more in a day, to prevent their return home for holidays and to attend to seasonal agricultural work, and to use punishments including imprisonment and heavy fines for absconding and disobedience.¹⁷²

4.3.3 ILO 'Forced Labour' Controversy, 1930s

The ultimate reflection of the extent to which the later Criminal Tribes system had developed into one predicated upon the exploitation of a captive labour force, can be seen in the ILO controversy of the early 1930s.¹⁷³ The International Labour Organization's Draft Convention on Forced Labour was discussed at the Internal Labour Conference of 1930.¹⁷⁴ By 1931, discussions on the possibility of the Government of India's ratification of the Convention were taking place, and the operation of the Criminal Tribes Act proved problematic.¹⁷⁵ The fact that the labour extracted in CT settlements could in no way be described as "offered...voluntarily",

¹⁷¹ Radhakrishna, *Dishonoured By History*, 111-112.

¹⁷² *Ibid.*, 112-113.

¹⁷³ This episode is laid out in detail by Radhakrishna, *Dishonoured By History*, 86-89.

¹⁷⁴ Radhakrishna, *Dishonoured By History*, 86.

¹⁷⁵ *Ibid.*

meant that only an exception in the ILO convention would allow for British India to ratify and join the convention without being compelled to disband the CT settlements system.¹⁷⁶ This difficulty underlines just how far, and how systematically, the Criminal Tribes apparatus had developed into a system of forced labour virtually bordering on slavery.

The argument for a 'labour turn' in the development of the Criminal Tribes system brings me to the conclusion that the CTAs and their related apparatus can be seen to have moved through three distinct phases. At its inception in CTA 1871, we encounter a biological-determinist account of communal crime and penal/disciplinary system of control; from the 1890s, and ultimately formalised in CTA 1911, this becomes a socio-economic account of communal crime and a disciplinary system of reformatory intent, practising what we have termed a 'reconstructive biopolitics' aimed at the ultimate integration of CT members into the *bios* of the British-Indian people; finally, the evident economic potential of CTs as a coerced and captive labour force ultimately turned the settlements into a disciplinary system of private economic *production* and exploitation.

By this observation, I do not seek to valorise or make a normative determination in respect of any phase of the Criminal Tribes system. My purpose here is to offer evidence for the applicability of an Agambenian biopolitics, and for those purposes, I argue that the 'labour turn' represents a move away from a reconstructive biopolitics that aims at the ultimate (re)integration of individuals into the *bios* of a political community. It seems apparent to me that, unlike the earlier notion of reformatory settlements in the second phase of the historical development of this system, incarceration is no longer accompanied by the idea¹⁷⁷ of eventual

¹⁷⁶ Radhakrishna, 'Surveillance and Settlements...', 193.

¹⁷⁷ Of course, we recognise the gap between the idea and the actual historical practice throughout the life of the CT system here, but again, this is an exploration of political theory and the ideas that motivated those distinctive historical practices.

(re)habilitation and release, but rather an ongoing deployment of captive labour to areas of private labour shortages, public works, and the generation of profits.

4.3.4 Criminal Tribes and Agambenian Labour – line of convergence

Where the conditions of the Criminal Tribes system after the ‘labour turn’ does overlap with Agamben is rather in a line of convergence. I have argued elsewhere for the analysis of labour as a notable omission in Agamben, and have argued for the structural similarities of Agamben’s ‘bare life’ and Marx’s alienated labour, to the extent that they may even represent two descriptions of a single phenomenon from two different analytical directions.¹⁷⁸ *Homo Sacer*’s discussion of Nazi biopolitics’ moves toward an accounting for biological life as an economic asset of the state offers a glimpse of a line of thought implicit in *Homo Sacer* but not fully developed by Agamben.¹⁷⁹ This line of thought would trace the development of a form of ‘labour turn’ in the concept of ‘bare life’ itself, as it is apprehended under the specific conditions of modern economic production. This work remains to be done, but represents the point at which an Agambenian biopolitics might ultimately intersect the third and final phase of the CTAs’ historical development. This current investigation, however, remains firmly located in an analysis of Agamben’s biopolitics in the context of the discourse of ‘reclamation’, and its associated historical-institutional practices (‘reconstructive biopolitics’), present at their fullest in the second period of the Criminal Tribes system.

Chapter Four conclusion

To conclude, this chapter has made three major arguments, all of which are critical to the success of this project. Firstly, that the Criminal Tribes Acts and their associated settlements

¹⁷⁸ Whittall, ‘The Elephant in the Room’, pp.11-15.

¹⁷⁹ *Ibid*; Also, Agamben, *Homo Sacer*, 144-145.

system map onto the four points of the 'common core' model of biopolitics, showing the utility of applying a Foucault-derived biopolitical frame to the analysis of the ideas, structures, and events that made up the Criminal Tribes system. Secondly, the demonstration of the presence within the CT system of the five characteristics of an 'Agambenian model' developed in Chapter Two. These two steps are necessary in order to argue that the application of a model derived from Agamben's biopolitics in particular yields a more coherent account, and is therefore of more analytical value. Finally, I laid out the grounds upon which it is possible to see a 'labour turn', in which the CT system shows an increasing economic rationale, and ultimately finds itself reconfigured into a system for the capture and exploitation of labour.

On the first component, congruence with the 'common core' model, I made arguments for each of the four points. I showed that the disciplinary targeting of the individual physical bodies of members of Criminal tribes, both in the legislation itself and in the associated practices built upon it, make the case for seeing the system as an example of the biopolitical drive for 'control of bodies'. The argument for seeing the Criminal Tribes system as an example of 'population-as-object' was made by linking the CTAs to the wider background of classification and categorisation in nineteenth-century India; noting the significance of Criminal Tribes' appearance as separate categories in the India Census; and the significance of class alliances in the divide-and-rule approach of British authorities toward the Indian population. The third point, 'politics-as-spatial-administration', was argued on three grounds. I traced the development of spatial logic through two of the CTAs' precursor systems, the Bombay (1827) and Punjab (1856) regulations, respectively; identified examples of the significance of control of space and movement within space to the ideas of colonial administrators in the primary literature; and offered reflections of the significance of the spatial aspect of CT management in later scholarship. The final piece of the general model,

'epistemic foundations' (or, more apt in the colonial case, 'conquest by knowledge production') was argued for on the basis of the deployment of the 'criminal anthropology' and Darwinian-tinged biologist paradigm of European thought at the time to the social and political issues of the British Indian empire; I surveyed the arguments for British colonialism in India as a form of 'conquest by knowledge production'; and, finally, explored the (mis)application of caste, and its significance for the determination of the nature of the challenges, and available responses, in the British epistemic toolkit. With substantive arguments made for each of the four points of this model, I concluded that the 'common core' of biopolitics provides a coherent account of key elements of the creation, and ongoing development, of the CT system between 1871 and 1952.

The second component of this project's theoretical argument was the analysis of those characteristics that demonstrate the significance of a biopolitical analysis derived primarily from Giorgio Agamben's *Homo Sacer* project. The first was to demonstrate the Criminal Tribes themselves resembled Agambenian 'bare life'. I did so by making the argument that the life of the Criminal Tribes was considered as life outside of the *bios* of the British-Indian people (that is, the *bios* of the Indian people that the administration envisioned, and set about creating), and the presence of *zoe*-fication, the use of dehumanising discourse in respect of CTs that equated them more with animal life, than membership of the political community; I also made the case that the Criminal Tribes found themselves caught in a relation resembling Agamben's 'sovereign ban', the exemplary relationship in *Homo Sacer* between bare life and sovereign power. The case for the second characteristic, the Criminal Tribes Acts as a 'regime of exception', opened with a discussion of how the discourse of 'extraordinary crime' and necessity of an exceptional response was a mainstay in administrative discourse from the late eighteenth century, through the *Thuggee* panic, and into the formulation of CTA 1871; I noted

that the Criminal Tribes system was quite deliberately placed outside of the established criminal code making it, following Khalili, a 'liberal state of exception' *par excellence*; finally, the removal of juridical oversight, both over declarations of Criminal Tribes, and over the settlements systems themselves, act as further indications of the CTAs' exceptional nature. The third characteristic of the Agambenian model was that CT settlements can be seen as a form of the institutions Agamben describes as 'camps'. I showed again the location of the settlements outside of the established legal order, arguing this demonstrates that CT settlements functioned on the basis of 'localised exception' that is a key part of Agamben's understanding of the camp; I also made the case that the function of Agamben's camps, the inscription of bare life into the political order, was an essential function of the Criminal Tribes settlements, whilst noting a divergence here insofar as the CTA settlements' inscription works on the horizon of eventual assimilation (at least, in their middle phase of reconstructive biopolitics that is our focus) as opposed to elimination. The fourth point of the Agambenian model, 'trajectories of escalation', was evidenced both by the huge expansion of the numbers of people covered by the CTAs, from the hundreds to the millions, and the use of CTAs against a widening number of communities and, eventually, political agitators; and by the intensification of measures in the settlements, from simple movement restrictions, to an institutionally-oriented reconstructive biopolitics, to an extreme example of coerced and captive labour. Finally, I sought to demonstrate that the settlements system shows a concern for the Agambenian concept of 'form of life'. I demonstrated that the work of the CT apparatus was explicitly understood as contributing to the wider imperial project of creating a new (British-)Indian nation, through the constitution of a new British-Indian people; I also showed how the work of the Criminal Tribes system aligns with Agamben's understanding of a key biopolitical injunction, 'giving form to the life of a people'; finally, we made the

argument for the CTAs working, as Agamben describes western biopolitics working, through the definition of a people by a process of continual excision. I concluded that each of the characteristics of the Agambenian model is present in the case of the Criminal Tribes system, to differing extents, and therefore claim to have set out an Agambenian account of the Criminal Tribes system that does not currently exist in contemporary scholarship.

The final contribution to this case study is the argument for the presence of a 'labour turn' in the historical development of the Criminal Tribes system. I showed how Meena Radhakrishna sketched the increasing use of Criminal Tribes for coerced labour after 1916, often for the benefit of private industrial enterprises; noted that the involvement of the Department of Labour in the management and oversight of CT settlements is indicative of the importance of settlements as a source of labour in the administrative mindset; and showed that an economic rationale had been present from the earliest points of the Salvation Army's involvement with the CT system but grew to a point of singular importance. Further, I argued for the distinctive organisational shift from the reconstructive biopolitics of the middle phase of the CT system into a primarily exploitative apparatus for the control and deployment of captive labour. Finally, I showed that the system's 'labour turn' was of such singular extent that it made ratification of the ILO convention on forced labour impossible for the Government of India in 1931 and subsequently an issue of political controversy, as the conditions in CT industrial settlements were increasingly equated with a form of slavery.

The three parts of this chapter, the 'common core' model of biopolitical exclusion, the 'Agambenian model', and the identification of the 'labour turn', combine to make the case that a biopolitical analysis derived from the work of Giorgio Agamben can be deployed to give us a novel, coherent, and compelling account of the processes that may have underpinned

the creation, and the historical transformation, of the Criminal Tribes Acts of British India. I believe the evidence and arguments presented here are sufficient to consider this case successfully made.

Conclusions

The thesis with which this research project has been concerned is that the application of Giorgio Agamben's concept of biopolitics, derived from the diagnostic aspects of his political theory in *Homo Sacer*, can provide a coherent and compelling accounts for the motivation, design, and operation of the 'Criminal Tribes' system of British India. I have described this as the 'principal aim' of this investigation, and will now recap and submit the arguments that I have made in order to make this demonstration.

Primary claims

This thesis, as a research document, contains three primary claims to originality.

'Historical' claim

Firstly, the 'historical' claim, which is to say my central claim that Agamben's biopolitics can be applied to the historical case of the Criminal Tribes system in a way that has not been done before. In Chapter Four of this thesis, I took both the precursor 'common core' model of biopolitics and the extended 'Agambenian' model and compared them to the points of historical interest identified in Chapter Three's case study. As summarised below, I found a sufficient level of overlap to conclude that Agamben's biopolitics offers a novel and coherent account for the motivations and operations of British colonial power in the design and administration of the 'Criminal Tribes' system of legislative acts and reformatory settlements.

'Theoretical' claim

Secondly, I made the 'theoretical' claim that this investigation shows that those material conditions theorised by Agamben as typical of modern biopolitics – the tension between political and natural forms of human life, the expanded rule of the exception as opposed to

systems of law, the tension between the privileged life of the citizen and the undifferentiated masses of poor and disenfranchised whose 'inclusive exclusion' in the political order leads to excesses of exclusion and extermination – were all present in combination for the first time in the conditions that we have referred to as European colonial modernity. Again, this argument was made clearly in Chapter Four by the extent to which the historical circumstances of the origins and development of the Criminal Tribes system, established in 1871 and with direct precursors stretching back to at least 1772, matches the key characteristics that we have identified as constitutive of Agamben's biopolitics in *Homo Sacer*.

'Methodological' claim

Finally, I argued for the 'methodological' claim, which underpins and makes possible the research presented in this thesis and all of my claims to original scholarship in this field. This thesis seeks to offset the twin, if unintended, deficiencies in the current use of Agamben's biopolitics in the study of biopolitics and empire – histories that mention, but do not make the fullest use of, biopolitics (and Agamben in particular), and biopolitical theory that engages at surface level with a given historical example, but often lacks the historical rigour and depth of investigation to make their cases as effectively as possible.

In Chapters One and Two, I developed two biopolitical models (the general 'common core' model, and the specifically 'Agambenian' model). I demonstrated that both of these models, but particularly the Agambenian (which remains the principal focus of this study) operate at a deeper level of reading and theoretical sophistication than the majority of uses of Agamben in historical writing achieve. For example, moving beyond the basic concepts of 'bare life' and 'exception', and into a richer discussion of concepts like 'trajectories of escalation' and 'form of life'. In Chapter Three, I engaged in a historical case study to a level of detail that is not

easily matched by similar uses of historical examples in the field of biopolitical theory. Without prejudice to the writers whose work fits either category (I happily acknowledge that models to this level of theoretical sophistication are not necessary for Agamben's legitimate and effective use in historical study, and *vice versa*), I argue that the combination of political theory and historical research offered in this thesis represents a more equitable balance between the two disciplines, and a demonstration of the benefits that this deeper articulation is able to offer to both.

Secondary claims and chapter reviews

In addition to the three primary claims to originality, I make several secondary claims to analytical novelty in this project. As there was one of these secondary claims in each chapter, I will now blend my summary of those claims with a brief recap of the aims and outcomes of each of the chapters that make up this thesis.

Chapter One – Towards a 'common core' of biopolitics

The aim of the first chapter was to present an essential precursor step to my objective of developing a distinctly Agambenian model of biopolitics. I sought to identify those areas that Agamben holds in common with the vast majority of theorists who operate within a broadly Foucault-derived biopolitical perspective. This step in my argument was important as a point of context for Agamben's theory, acknowledging the common ground he shares with Foucault and, by extension, writers across the discipline, and as a reflection of our own thinking on how biopolitical writers, inquiries, or historical examples can be usefully assessed and compared.

I identified four distinctive shared features of biopolitical analysis, using examples from Foucault, as the acknowledged progenitor of the concept, and Agamben, as the focal point of this investigation. I identified the following characteristics as the 'common core' of biopolitics:

- 'Control of bodies'
- 'Population as object'
- 'Politics as spatial administration'
- 'Epistemic foundations'

The function of the model is twofold. Firstly, to offer a new understanding of the forms of inquiry that biopolitical theory tends to take. Secondly, to be a preliminary analytical step for our work on Agamben, in assessing whether biopolitics in general offers a useful explanatory frame for a given historical instance.

This chapter also made a 'secondary' claim to originality, insofar as this 'common core' model has not been developed or used before. It will, no doubt, offer new material for the ongoing critical definitions and discussions of biopolitics as a sub-discipline within political theory.

Chapter Two – An 'Agambenian' model of biopolitics

With the argument for a 'common core' of biopolitics established, Chapter Two tightened the focus onto the theorist with which this thesis is principally concerned, Giorgio Agamben. The chapter built a similar model of characteristics, not necessarily individually exclusive to Agamben but distinctive in their combination, drawn from Agamben's diagnosis of modern biopolitics in *Homo Sacer*. My aim was to show where Agamben's contribution to biopolitical theory stands out, in order to subsequently make these criteria a useful assessment tool for evaluating the analytical utility of Agambenian biopolitics.

I identified five characteristics that comprise an 'Agambenian model' of biopolitics:

- 'Bare life'
- 'Regimes of Exception'
- 'The Camp'
- 'Trajectories of Escalation'
- 'Form of Life'

The aim of this chapter was to develop the central theoretical framework of this thesis as a whole. My principal aim across this thesis is to demonstrate the novel and convincing applicability of Agamben's biopolitics to the 'Criminal Tribes' system of British India. Chapter Two did the work in constructing exactly what I mean by 'Agamben's biopolitics' in this project.

There is also a secondary claim to originality in this chapter, insofar as this model has not been developed to our knowledge or used in Agamben (or wider biopolitical) scholarship. I look forward to the debate that will no doubt come from this attempt to distil the diagnostic biopolitics of Agamben's *Homo Sacer* into this model.

Chapter Three – The 'Criminal Tribes' of British India

Prior to the sequential application of the two biopolitical models to the Criminal Tribes system, I engaged in an in-depth historical case study on the origins, design, and development of this system. This was in order to fulfil one of the key aspects of my 'methodological' claim, which is to introduce a more deeply engaged and rigorously researched form of historical investigation into a work of biopolitical theory.

I accomplished this through the following sections of discussion:

- ‘Themes in the history and historiography of the Criminal Tribes system’ – showing how the tropes of hereditary crime and exceptional challenge are laced throughout the primary sources, and surveying prominent scholarship in the field, along with the identification of four key themes (ideological, institutional, sociological, economic) in their accounts of the beginnings and underpinnings of the CT system;
- ‘Legal developments and precursors, 1772-1871’ – in which I identified the twin trajectories of concepts of guilt (from collective/gang, through communal, to hereditary) and the increasing use of exceptional legal responses in British treatments of perceived colonial criminality, from the East India Company administration to their combination and culmination in the original CTA of 1871;
- ‘The Criminal Tribes Acts and Amendments 1871-1911’ – which identified key clauses in the principal pieces of CT legislation, showing the gradual expansion and intensification of measures such as movement restrictions, warrantless arrest, and incarceration into settlements, to which those tribes were subjected;
- ‘The Criminal Tribes settlements’ – a detailed look at the physical precursors to the settlements system, and the objectives and methods of the system itself.

Throughout the chapter, I made reference to both the ‘common core’ and ‘Agambenian’ models of biopolitics when the comparison was appropriate. I also sought to highlight important and distinctive elements of the system itself, such as the ‘rising generation’ approach of colonial administrators who sought to incarcerate families over multiple generations in order to successfully wean the younger generations away from the habits of the old and into the new way of life envisioned for them as a new ideal for British-Indian peasantry. Finally, I argued that using biopolitics as a tool for analysing the Criminal Tribes

system offered a new and deeper insight into the relationship that existed between the ‘why’ of the system (who were chosen as targets, and why) and the ‘how’ (the range of measures used for their control and attempted reconstruction). I described this as the ‘why *of* the how’, and argued that this indicates the novel coherence that an Agamben-derived biopolitics can offer as an account for the choice of actions undertaken by colonial power to target and to manage the Criminal Tribes.

The aim of the chapter was to establish the historical material to which it would be possible to apply the biopolitical analyses in the final chapter, and to account for the distinctive features of the Criminal Tribes system against which it would be possible to compare them.

Chapter Four – Biopolitics and the ‘Criminal Tribes’ system

Chapter Four is the culmination of the work in this project. In it, I took the two models of biopolitics developed in the first two chapters and assessed the extent to which each of their points can be mapped onto elements of the Criminal Tribes system as it existed in British colonial history, based on the historical material laid out in Chapter Three.

In relation to the ‘common core’ of biopolitics, I identified examples throughout the Criminal Tribes study that mapped onto the four criteria of the model. Firstly, evidence of the ‘control of bodies’ in the physical targeting of CT bodies in legislation (e.g. fingerprinting; corporal punishments, etc.) and in the disciplinary mechanisms of the institutions (such as the idea of corrective labour). In relation to the second characteristic, ‘population as object’, I showed the drive towards the classification and subdivision of the CT population, and the divide-and-rule modality of class alliances between the British and sections of the wider Indian population (at the expense of others), were both central to the operation of the system. In relation to ‘politics as spatial administration’, I showed that the physical demarcation of

spaces for settlements, the physically-bounded institutions of the mature settlement system, and the consistent emphasis on control of movement (which is always movement-within-space), were all important aspects of the CT system and mapped onto this analytical concept. Finally, I argued that the use of criminal anthropometrics, the 'sciences' of demography and anthropology, and the British misapplication of the concept of caste in the case of the Criminal Tribes are all evidence of the 'epistemic foundations' of biopolitics, and all played a role in the 'conquest by knowledge production' that biopolitical theory maintains these foundations make possible.

In each of the four 'common core' components, therefore, I presented evidence of correlative aspects of the historical phenomena associated with the Criminal Tribes system. I concluded that enough evidence has been presented here to achieve the precursor step for our thesis, which is to assert that the Criminal Tribes system is amenable to a biopolitical analysis based on the Foucauldian 'common core'.

The chapter moved on to consider the central object of this study, the 'Agambenian' model of biopolitics. By showing how the lives of the Criminal Tribes communities were placed beyond the legitimate *bios*-life of the Indian peasantry, how they were approximated more to animal life than fully human, and how their relationship to the colonial state resembled Agamben's concept of the 'sovereign ban', I made the case that the lives of the Criminal Tribes reflect Agamben's ubiquitous concept of 'bare life' – the first point of the model. The second distinctive element of Agamben's biopolitics that I identified is the concept of 'regimes of exception'. In the case study, it was shown that the discourse of the Criminal Tribes as an exceptional challenge, requiring an exceptional response, was commonplace in colonial administration, and further that the Criminal Tribes system itself was both placed outside of

the established colonial legal order and removed from judicial oversight. These three aspects of the system demonstrate that the system itself should be seen as an Agambenian 'regime of exception'. I then assessed whether the Criminal Tribes settlements resembled the 'camps' of Agamben's biopolitics. I argued that they did insofar as they resemble his description of the nature (localised exception) and function (inscription of problematic/unwelcome life into political order) of the concentration camps. The argument for the presence of 'trajectories of escalation' present in the CT system centred on the consistent expansion of the numbers and types of communities subject to the CTAs over time, and the intensification of punishments and intervention measures within the settlements themselves. Finally, in relation to Agamben's notion of 'form of life' as the central concern of biopolitics, I showed that the drive to change the non-productive habits of individuals (dress, leisure time, engagement with social, cultural, and economic institutions) went beyond the materialist, Foucauldian sense of biopolitics, and approximated the notion in Agamben's biopolitics that I described as *non-material shaping*. These efforts were all clearly directed at the deliberate cultivation of a new and distinctive 'form of life' for the Criminal Tribes.

This section demonstrated significant points of intersection between the biopolitical analytical frame derived from Agamben's *Homo Sacer* and the material, historical phenomenon of the Criminal Tribes system. I identified overlaps with every point of our 'Agambenian' model, and argue that this shows the additional value to the researcher of deploying an Agamben-derived biopolitical frame to the study of the Criminal Tribes. That claim will now be subject to criticism and debate in the secondary literature surrounding the topic, but my conclusion is that it has been made to a level of theoretical and historical integrity that I will be happy to defend.

Chapter Four finished by laying the groundwork for what I have termed a ‘labour turn’ in the Criminal Tribes system. I presented the case, in what is a secondary claim for originality within the chapter, that the overall governing principle of the CT system can be seen to move through three overall phases – a punitive phase of simple movement restrictions and physical coercion, the ‘reconstructive biopolitics’ phase (my main interest) where the objective of breaking and reshaping the way of life of CT communities was central, and a later, expropriative phase in which the potential for the coercion and exploitation of tribes as a cheap labour source appears dominant. This contribution should form the basis upon which useful further scholarship can be conducted.

Directions for future research

My principal aim in this thesis has been to demonstrate the value of applying Agamben’s biopolitics to the history of the Criminal Tribes system, and in so doing, make a small contribution to the important research taking place at the intersection of the political theory of biopolitics and the historical study of empire. With the arguments made and left to the judgement of the reader, it remains for me to close this thesis with some indications of where this work might help develop future lines of inquiry in political theory, history, and contemporary political research.

Political Theory: Biopolitics

I hope that the main contribution of this thesis to the field of political theory will be to enhance the case for a deeper consideration of European colonial modernity as the seedbed for the conditions Agamben describes as ‘biopolitics’ when they appear in Europe in the wake of the First World War. The colonial roots of biopolitics, in both the Foucauldian and Agambenian senses, remain to be fully excavated. This thesis can function in a similar way to

Stoler's work in respect to Foucault, by identifying a colonial influence that has not yet been fully acknowledged and built into Agamben studies.

It would also be possible to repeat the theoretical work of this thesis but in relation to other thinkers in the biopolitical field. For example, it is equally possible to build upon the 'common core' of biopolitics and add, for example, a model distinctive to Roberto Esposito's biopolitics, or Hardt and Negri's, or Judith Butler's, and so on. It has not been my intention to argue for Agamben as some kind of apex of biopolitical analysis through my construction of the Agambenian model – a similar operation could, and should, be carried out by scholars whose engagement with biopolitical theory specialises in other theorists' work. It would be fascinating to see where, in terms of applications to historical phenomena, each of a series of biopolitical models works or does not work; to find those places that biopolitics can help us to understand more and, equally, those places where it does not.

Finally, I have limited the analysis here to Agamben in his diagnostic mode, at the opening of the *Homo Sacer* series. That series extends to nine books in total, stretching across twenty-five years of publication, and of exponentially wider philosophical and political scope than the necessarily limited model that we have derived in order to frame (and, equally importantly to contain) this doctoral thesis.

I look forward to discussions with Agamben scholars not only on the utility of the 'Agambenian model' developed here, but also where that model can be enhanced when, without the physical constraints of a postgraduate research project, it will be possible to open this analysis up to a model derived from Agamben's now-completed series.

History: Empire, colonialism

With the caveat that history is not my primary discipline, I believe that the work conducted in this project can help to expand our historical understanding of the Criminal Tribes system and related facets of colonial history. I have already identified the 'labour turn' and our notion of a three-phase understanding of the history of the Criminal Tribes settlements system. We believe that this is an area ripe for historical analysis, and one which can be substantively facilitated by the preliminary historical material offered here. This Agambenian model also stands as a legitimate explanatory schema in the field, offering an account not only of how the challenge of the Criminal Tribes was characterised but (and this is still distinctive in the historical literature that I have encountered) showing a coherent, underpinning for both the perception of the problem and the 'toolkit' that constituted the solution. This remains to be examined by researchers with greater expertise in the field than I, but this account can add to the historical debate on its own terms and deserves further consideration.

Widening our focus from British India to the British Empire, I see two potential developments that I am keenly interested in pursuing. Firstly, that this analysis of the Criminal Tribes settlements system establishes a comparative base against which other reformatory and 'reservation' spaces across the British Empire can be compared. There is much existing scholarship on concentration camps (such as Forth's), but the spatial aspects and (potentially) biopolitical functions of native reservations in pre-Apartheid South Africa, and the short-lived 'model villages' initiative in Victorian Canada are two prime examples of promising new lines of inquiry following on from this thesis. Secondly, recall the repeated references to the concepts of 'reclamation' (of land, and of people) and the idea of 'wastelands'/'waste grounds' in the CT administrative literature. To trace the origins of both of these concepts

(there are, for example, interesting overlaps in the 'wastelands' concept to elements of political theory and radical politics in the English Civil War), their development over time, and the other historical phenomena to which they may be linked, would be a useful, and potentially fascinating, area of historical and political thought.

Finally, I have noted how Svirsky and Bignall's collection opened up the application of Agamben's biopolitics to other areas of colonialism, including the concentration camps for Bedouin tribes on the border of Italian Libya and Egypt. My work here on the design, development, and operation of the Criminal Tribes system also provides a basis for comparison between the British and other empires, in terms of their responses to nomadic and semi-nomadic tribes, concepts of and responses to colonial crime, and policies/mechanisms of assimilation and integration. Were other European empires content to lock up or, in extreme cases, kill those people whose way of life posed a fundamental challenge to their idea of political order, or can we find similarly systematic attempts to change the essence of who those people were in order to effect their integration on this wholly deeper level?

Contemporary politics/history

Finally, I would hope in vain that the insights made here, into concentration camp systems, targeted exclusionary practices, race- and biology-based discrimination, and the attempts to use state power to destroy traditional ways of life and impose arbitrary 'better' ones, would not offer much scope for contemporary application. Sadly, and inevitably, this is not the case.

There are a few current areas of concern that appear to partially match the biopolitical models we have developed here. For example, the policies of detention and family separation currently practised at the United States border, the refugee camps of Europe, and the ongoing

internment and oppression of the Rohingya people in Myanmar, to name just a few. I do not currently believe that these cases meet enough of the points in the biopolitical models to say with confidence that the biopolitical reading of the CT system carried out here may make a useful contribution to their analysis, but the investigation is still likely to be useful to the wider field of research.

The one area that does seem to fit, based of course on a necessarily fragmentary, (but growing) body of evidence, is the treatment of the Muslim Uighur people in China's Xinjiang province. Here, we appear to encounter a discourse of a way of life that cannot be accommodated into the idealised *bios*-life of the Chinese people as envisioned by the ruling communist party, and a vast network of camp-like structures that appear designed not simply to contain people, but to fundamentally re-shape the ways of life of those communities into something resembling the CCP ideal.

It is with no small amount of caution, given the gravity of the situation facing those communities, that I extend this comparison. I do however find a compelling level of overlap between what is known about this system, and the light that my own investigation into the Criminal Tribes system has been able to throw on both the motivations and methods of operation of that network of colonial concentration camps. This is a comparison which would need to be cautiously approached, but which may give us a new understanding of some of the dynamics that appear to be at play in the terrible events now playing out before us.

5.4 Final remarks

It is with these indications of future avenues of research that this work may help to open, that I bring this project to an end.

In my attempt to apply the biopolitics of Giorgio Agamben's *Homo Sacer* to the Criminal Tribes system of British India, I have aimed to achieve two academic aims. To show the discipline of biopolitical theory the extent to which a deeper engagement with historical case study can enhance our analysis; and to demonstrate to historians with an interest in European colonial modernity that Agamben's work is more than just 'bare life' and the 'exception', and that a more theoretically-informed engagement with his work may help us toward an enriched understanding of the events and conditions that form the focus of ours.

It may very well be the case that, in seeking a more equitable balance between the two disciplines, this thesis ultimately satisfies neither – often the sign of a good compromise! I do, however, look forward to engaging in that debate, and very much hope that this small gesture towards a new interdisciplinary approach to this area of study, will make a positive contribution to both of my adoptive fields.

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