

TO: American Institute of Pakistan Studies

FROM: Sean P. Killen, Doctoral Candidate  
The University of Texas at Austin, Department of History

DATE: July 8, 2014

RE: Final Report, 2013-14 Long-Term Fellowship for dissertation research on  
“South Asian Legal Professionals and International Legal Order, c. 1860-c.  
1970”

## **Introduction**

I was awarded five months funding through an AIPS Long-Term Fellowship to support my dissertation research at multiple archives. My dissertation focuses on one question: how did South Asians imagine and work to construct international law and institutions? My study will illuminate the shift from a global legal order based on empires to one based on sovereign states. I focus on South Asians’ intellectual engagement with international law and concepts of global order, as well as on South Asians’ diplomatic and legal practices.

I worked in London, United Kingdom, at the British Library, the National Archives, and at the Parliamentary Archives. I worked in Manchester, United Kingdom, at the Labour History Archive and Study Centre, which is housed at the People’s History Museum. I worked in Geneva, Switzerland, at the International Labour Organization archive, the League of Nations archive, and the World Council of Churches archive. I was unable to arrange to use archival materials from the Permanent Court of International Justice at the Peace Palace in The Hague, Netherlands.

## **The Archives**

### *London*

The India Office Records at the British Library - I focused on the Indian Political Intelligence files, files demonstrating the interaction between the League of Nations and the Government of India, and files related to South Asians outside of India. I also used the personal files and manuscript collections related to individuals (e.g. S.P. Sinha, Muhammad Zafrullah Khan) who often worked at the intersection of South Asian and international affairs.

The National Archives of Britain - I used files showing the influence of the Government of India and South Asians overseas in the political and legal development of the colonies and dominions. I also focused on the overlapping influence of Whitehall, the Government of India, and non-governmental South Asian groups in Middle East and Africa.

Parliamentary Archives - Here, I used the personal papers of Lloyd George (especially related to E.S. Montagu, the League of Nations, and the Turkish settlement after World War I), Herbert Samuel (on Zionism), John St. Loe Strachey, Stow Hill re: Goa, and the Commonwealth Parliamentary Association.

### Manchester

Labour History Archive - I used two collections with extensive files related to India. The Communist Party of Great Britain collection contains the files of Ben Bradley, Rajani Palme Dutt, and miscellaneous organizations (Workers Welfare League of India, International Class War Prisoners' Aid, International Labour Defence).

The Labour Party collection contains meeting minutes and policy papers from the Party's International Department (India, Zionism, League of Nations, League Against Imperialism), and the personal papers of William Gillies (president) and James Smith Middleton (secretary).

### Geneva

International Labour Organization - The monthly reports from the India branch office of the ILO are especially good for details of labor developments in South Asia. I also used secretariat files on emigration, migration, women's issues, visitors from India in Geneva, India's status at the ILO, Asiatic labor, and external meetings (e.g., with the NAACP), native labour, missions to India, and Directors' correspondence focused on India.

League of Nations Archive - I collected the personnel files of South Asians working at the League Secretariat in Geneva, petitions to League from non-governmental sources, and files on South Asian issues of interest to the League.

World Council of Churches archive - I spent only a short time at the WCC archive. I found information on missions among Muslim communities, correspondence with Government of India, and papers on the supranationality of missions.

### **The AIPS Contribution to my Dissertation**

The Long-Term Fellowship allowed me to continue work at some archives (e.g., the British Library, the ILO) and to conduct new research (e.g., the Parliamentary Archive, the Labour History Archive). The time I spent collecting information was extremely useful, but my AIPS-funded work also allowed me to structure my dissertation.

My approach to analyzing South Asian contributions to international law and institutions can be characterized as “law in history.” I am not writing about the ways legal professionals have used history to buttress legal arguments, and I am not writing about the history of law, that is, doctrinal history. I am interested the interaction between law and society, the law broadly in its social, political, economic, and cultural context.

The questions raised by this approach are sociological, as well as historical. My dissertation is divided into three sections. Section 1, “Creating Legal India,” asks, how and why, after the First World War, was the state of India recognized as a subject of international law, as evidenced by its founding membership in the League of Nations and the International Labor Organization? How did the state of India obtain international legal personality, despite its “anomalous” status as non-self-governing? Section 2, “Imperial Constitutionalism and International Dyarchy,” examines the way that South Asian constitutional laws and practices were adapted for use in the international community. Section 3, “One Nation, One State: the Erosion of Multi-National Federation,” asks, how and why was the notion of the territorial nation-state naturalized in international law and institutions following the Second World War?

“Creating Legal India” will analyze 1) South Asian involvement in the Eastern Question, 2) the legal structure of the global economy and the local effects of South Asian migration, and 3) the Judicial Committee of the Privy Council, the highest colonial court of appeal and much used in colonial India, as a quasi-international court. “Imperial Constitutionalism and International Dyarchy” examines 1) the interwar structure of international order that largely excluded South Asians from participating in political and security debates while allowing South Asians great latitude to participate in social, economic, and technical debates, 2) South Asians’ use of global networks and

international institutions to make rights claims that cut against the structural dyarchy of the international system, and 3) jurisdictional issues related to South Asian migration (i.e., what legal systems would handle South Asian rights claims?). Finally, “One Nation, One State: the Erosion of Multi-National Federation” considers 1) the issue of sovereignty and self-determination vis-à-vis the princely states at the time of Independence and Partition, 2) the Return of the Eastern Question in the Israel-Palestine dispute, and 3) the ways that India and Pakistan participated in international society through the United Nations and the tensions between sovereignty and self-determination highlighted by Indian and Pakistani approaches to the issues of human rights and decolonization.

### **Possible Stand-Alone Projects**

Depending on what collected material is used for my dissertation, I have several possible stand-alone articles in mind.

First, one of my graduate student colleagues studies the Portuguese empire and decolonization, and we have discussed co-authoring a paper on Goa. I have collected material, and we need to have further discussions about this potential project.

I would be interested in writing an article on Lloyd George, E.S. Montagu, India, and the Post-World War I Settlement. I would start from Lloyd George’s claim that Montagu, at the Peace Conference seemed less like a representative of the empire than a “successor on the throne of Aurangzeb.” There was some truth in Lloyd George’s complaint because Montagu took seriously his responsibility to advocate for the state of India and for South Asians. The Parliamentary Archive contained much material demonstrating the participation of South Asians in the debates surrounding the post-War settlement, not all of which I will use in my dissertation.

Finally, the migration of South Asians to the United States offers a fascinating way to discuss both the shift in power from Britain to the United States and the participation of South Asians in global rights networks. South Asians used the U.S. court system extensively to challenge discriminatory laws. This occasioned inter-governmental debates between the United States and Britain about British authority in South Asia and the proper venues for deciding questions related to South Asians in the United States. South Asians also worked closely with the labor and civil rights movements in the United States, so the role of South Asians and India in those U.S. movements is ripe for examination.

## **Thank You, AIPS**

The financial support offered by AIPS was exceptionally generous, and the flexibility to use that money in various locations served my project very well.

I hope, and believe, that my project will contribute to our understanding of Pakistan, particularly by shifting the pre-Independence focus to the place in and approach of South Asians to the global environment, but also through an examination of Pakistan's approach to international affairs in the first two decades after Independence. The internationalism of Pakistan's early leaders often gets lost in today's focus on Islamization and "wars" on terror. While those can be interesting issues, a better understanding of the global-mindedness of South Asians, South Asian Muslims, and Pakistanis could lead to a more complete of Pakistan in the world today.