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# Imperial Violence, Law, and Compensation in the Age of Empire, 1919–1922

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## Abstract

The intricacies of modern compensation procedures that value human life, injury, and property are often overlooked, despite growing demands for reparations and justice following state violence. This article historicizes the legal structures of modern compensation, arguing that the advent of imperial rule was characterized not only by the extraction of material resources and labour, but also by the discriminatory construction and implementation of imperial law, which sought to protect European life, wealth, and property. By focusing on one of the most notorious episodes of violence in British imperial and modern South Asian history – the atrocities committed by British officials in Punjab (1919), including the Jallianwalla Bagh massacre – this article underscores how British officials penalized protests and freedom struggles by legalizing indemnities, taxes, and fines to compensate European families. In contrast, colonial officials grossly undervalued the claims and payments of Indian subjects killed or maimed during state violence, if they did at all. Furthermore, this article reveals how imperial state compensation, managed in relative privacy and buried in legal proceduralism, was rooted in legal structures of intersectional racialized inequality, and political concerns that valued the longevity of imperialism, rather than a meaningful gesture of justice and redress.

How much is a life worth? Over the past two decades, imperial metropolises have wrestled with this profound question, issuing more apologies and settling an unprecedented number of cases in litigation for compensation than ever before. Observing this phenomenon, some scholars have referred to the twenty-first century as the ‘age of apologies’.<sup>1</sup> In June 2023, the German government agreed to pay an additional €1.29 billion to Holocaust survivors,

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<sup>1</sup> Mark Gibney, Rhoda E. Howard-Hassmann, and Jean-Marc Coicaud, eds., *The age of apology: facing up to the past* (Philadelphia, PA, 2008).

following a 2021 settlement that involved intense litigation with survivors of the Herero-Nama genocide in Namibia for €1.1 billion. In the last decade, Britain has apologized and settled numerous cases with Irish survivors of the 30 January 1972 massacre in Londonderry, Northern Ireland, known as Bloody Sunday, and hundreds of Windrush-era Black immigrants who were deported or placed under threat of deportation. Other countries, including Canada, Australia, New Zealand, the Netherlands, Spain, Belgium, and Portugal, have found themselves mired in apologies for war, slavery, and colonial violence.

Contemporary litigation has led to apologies and acknowledgements of a violent past, but only as an anomaly, thereby precluding precedent or liability for other cases. As dozens of postcolonial subjects knock on what were once imperial gates seeking compensation, restitution, reparations, and reparative justice, their claims are negotiated according to modern law, politics, and history: what we know and can prove about the past. In compensation cases, settlements have followed years of litigation and public debate, putting an enormous burden on groups that have already suffered to provide evidence of imperial responsibility for violence. Imperial metropolises have had to 'negotiate and compromise with competing historical narratives so as to retain credible and plausible constructions of the past' as they acknowledge their duplicity in participating in and condoning state violence.<sup>2</sup> Moreover, despite the global reach of these payments, each settler state and former imperial metropole continues to reflect disparities on the lines of race, class, gender, ability, and caste into its assessments of litigation payments creating a system in which the lives of non-European people are valued at far less than their European counterparts.

State commitments to evade apologies, diffuse precedent, and define state violence as an anomaly reflect efforts to restrict legal liability and political accountability for colonial harms. In 2013, for example, Britain's Foreign Office settled with 5,228 Kenyan survivors for £19.9 million. The payments were made for Britain's torture, forced detention, castration, maiming, rape, and execution of 1.5 million Kenyans of primarily Kikuyu ancestry. The testimonies of Kenyan survivors, and historians David Anderson, Huw Bennett, and Caroline Elkins, guided by the firm Leigh Day and the Kenyan Human Rights Commission, were critical to the litigation process by filling in for missing archival documents. During litigation, the High Court ordered the government to release files related to the Mau Mau repression of the 1950s and 60s, which provided evidence of British imperial violence against the Mau Mau and state efforts to conceal it. As part of the Foreign Office's settlement, Britain's high commissioner to Kenya, Christian Turner, issued an apology: 'The British government recognizes that Kenyans were subject to torture and ill treatment at the hands of the colonial administration...The British

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<sup>2</sup> Tom Bentley, *Empires of remorse: narrative, postcolonialism, and apologies for colonial atrocity* (New York, NY, 2015), p. 5. See also Kim Wagner, 'Apologies for historical atrocities fall short of a proper reckoning', *Financial Times*, 4 June 2021.

government sincerely regrets that these abuses took place.’<sup>3</sup> Turner’s statement recast imperial violence in Kenya as an exception rather than an integral and systemic feature of Britain’s imperial past. Foreign Secretary William Hague further claimed that the settlement did not ‘establish[h] a precedent in relation to any other former British colonial administration’.<sup>4</sup>

Despite the rise in compensation claims and payments, we know little about the processes and structures that underpin the legal edifice of modern compensation in the aftermath of state violence.<sup>5</sup> Our historical and public narratives pertaining to compensation predominantly accentuate the triumphs of litigation in terms of financial recompense, inadvertently obfuscating the complex interplay of legal, political, and economic paradigms that perpetuate racial disparities and systemic inequities. This article underscores the imperative to meticulously scrutinize these paradigms so that petitions for redressal are not subverted by the deep-seated historical prejudices embedded within modern law. It argues that the advent of imperial rule was characterized not only by the extraction of material resources and labour, but also by the discriminatory construction and implementation of imperial law, which sought to protect European life, wealth, and property. Just as France leveraged indemnities on Haiti following the Haitian Revolution, imperial metropolises instituted forms of law-making and imperial practice that penalized colonial protests and freedom struggles by legalizing indemnities, taxes, and fines to protect European lives and property with the explicit intent of maintaining imperial structures of power and wealth. In contrast, colonial officials grossly undervalued the claims and payments of Indian subjects killed or maimed during state violence, if they did at all. In short, imperial state processes, structured and guided by law, were instrumental in historically producing the foundational racial disparities between the claims and value of European and non-European subjects.

Delving into one of the most notorious episodes of violence in British imperial and modern South Asian history – the atrocities committed by British officials in Punjab (1919), including the Jallianwalla Bagh massacre – this article historicizes how imperial law and legal practice built and sustained racial compensation structures that devalued the lives and livelihoods of colonial subjects and financially penalized colonial protests and freedom struggles while condoning state violence. The events in question spanned some four months in early 1919, when British officials responded to Indian subjects’ protests using violent state tactics: martial law, indefinite detention, corporal

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<sup>3</sup> Gregory Warner, ‘Britain apologizes for colonial-era torture of Kenyan rebels’, *NPR*, 9 June 2013; Caroline Elkins, ‘Britain has said sorry to the Mau Mau. The rest of the empire is still waiting’, *Guardian*, 7 June 2013; William Hague, ‘Statement to parliament on settlement of Mau Mau claims’, Foreign and Commonwealth Office, 6 June 2013.

<sup>4</sup> ‘UK to compensate Kenya’s Mau Mau torture victims’, *Guardian*, 6 June 2013; ‘Compensation for “Bloody Sunday” families’, *Reuters*, 22 Sept. 2011.

<sup>5</sup> Compensation, unlike reparations, was historically constituted by payment for lost labour, life, and property of a person, rather than a sense of repair or restitution. It continues to be used in similar ways, but categories of injury fluctuate according to what lawmakers and courts recognize as legally viable compensation categories.

punishment, financial penalties, shootings, and bombings.<sup>6</sup> British officials' massacre of Indian subjects in Amritsar, Punjab garnered global attention. On 13 April 1919, General Reginald Dyer, an officer called to Punjab, directed fifty troops to enclose an area in Amritsar and open fire on a group of Indian men, women, and children. The troops shot at least 1,650 bullets at Indian subjects at Jallianwalla Bagh, including children at play. British violence in colonial India became a global lightning rod as major newspapers covered the events, compelling Mohandas Karamchand Gandhi to transition towards Indian independence, and Rabindranath Tagore, Asia's first Nobel Prize recipient, to return his British knighthood. The official number of Indians killed or maimed at Jallianwalla Bagh in 1919 remains disputed. Since 1919, British authorities have claimed that far fewer people were murdered than the estimates of scholars and residents of the region.<sup>7</sup>

Following an official legal investigation by the imperial administration which established that its officials had overstepped their bounds at Jallianwalla Bagh and Gujranwala, Indian subjects demanded that the governments of Punjab and India issue a statement of regret and compensation payments to Indian subjects, just as they had to Europeans, for the atrocities in Punjab. However, British officials extended amnesty to the involved officers and declined to offer either an apology or a formal statement of regret. The Viceroy's Council worried that compensation payments to Indian families following atrocities in Punjab could establish precedent for similar claims related to colonial violence. When British officials in Punjab, Delhi, and London could no longer deflect the blatant use of force against Indians, British officials relented to compensation to portray imperial brutality as an episodic infraction of misconduct. C. G. Gwynne, deputy secretary to the Government of India, insisted that the Punjab atrocities differed from other government-sanctioned shootings of civilians, and that any compensation by the Government of India to Indian families could not be construed as a matter of precedent.<sup>8</sup> Rather than a meaningful gesture of justice and redress, imperial

<sup>6</sup> The extension of emergency powers and martial law in response to colonial protest has been a central feature of imperial governance. See, for example, Durba Ghosh, *Gentlemanly terrorists: political violence and the colonial state in India, 1919–1947* (Cambridge, 2017); Nasser Hussain, *The jurisprudence of emergency: colonialism and the rule of law* (Ann Arbor, MI, 2003); Elizabeth Kolsky, *Colonial justice in British India: White violence and the rule of law* (Cambridge, 2011); Alastair McClure, 'Archaic sovereignty and colonial law: the reintroduction of corporal punishment in colonial India', *Modern Asian Studies*, 54 (2020), pp. 1712–47; Taylor Sherman, *State violence and punishment in India* (London, 2010); Radhika Singha, *A despotism of law: crime and justice in early colonial India* (Delhi, 1998); Radhika Singha, 'Punished by surveillance: policing "dangerousness" in colonial India, 1872–1918', *Modern Asian Studies*, 49 (2015), pp. 241–69. On the Amritsar massacre, Kim Wagner meticulously traces the concerns of British officers and the punishments they inflicted on Indian subjects, while Caroline Elkins has reconceptualized British officials' actions as 'legalized lawlessness'. See Kim Wagner, *Amritsar 1919: an empire of fear and the making of a massacre* (New Haven, CT, 2019); Caroline Elkins, *Legacy of violence: a history of the British empire* (New York, NY, 2022).

<sup>7</sup> Wagner, *Amritsar 1919*, pp. 216–21.

<sup>8</sup> See letter from C. W. Gwynne, Government of India, to the Home Department, 8 Mar. 1922, in Notes, Political, Government of India, file no. 333, serial 1–13.

state compensation, managed in relative privacy and buried in legal proceduralism, was rooted in legal structures of racialized inequality and concerns about the stability of Britain's empire. Even as state officials valued colonial life, bodies, and property, they created compensation schemes structured according to racial difference by using legal tactics that grossly undervalued colonial lives compared to White European subjects. The result was a state compensation scheme that differed in scope and scale for Indians and Europeans.

The Viceroy's Council confidentially allocated ₹226,000 to Indian subjects for the colonial government's use of 'excess' violence during the atrocities in colonial Punjab. The British government's compensation payment for more than 700 Indian subjects was less than half the amount compensated to approximately a dozen European subjects.<sup>9</sup> This sum, amassed from fines and taxes imposed on Punjab's residents, paled in comparison to the amounts allocated to Europeans. While a few scholars have acknowledged the existence of this compensation in a single footnote or sentence, there is yet to be a formal analysis of its scale, scope, or history despite the fact these payments likely remain the largest payment made to Indian subjects to date (using fines and taxes levied on Indian subjects). The following sections, drawing on newspapers in English and Punjabi, imperial legislative records, inquiry reports, visual imagery, and imperial correspondence sourced from Delhi, London, and Chandigarh, elucidate how imperial compensation inscribed racial disparities and inequities through law and political concerns that valued the longevity of British imperialism.

## I

The advent of imperial rule in colonial India was characterized by laws that British officials discriminatorily implemented to protect European life, wealth, and property. Beginning in 1859, British officials created legal infrastructure related to financial penalties, indemnities, and taxation that penalized colonial subjects for any protests that injured the life or property of Europeans. British officials did not employ the same legal structures to safeguard Indian life and property. Instead, a colour line distinguished the value and significance of European and colonial lives.

State officials responded to protests across Punjab in early 1919 with incredible violence. As Punjabis disrupted railway lines, cut telegraph wires, demolished banks, participated in *hartals* (strikes), and simply assembled to protest British rule in early 1919, the colonial government responded by bombing, detaining, whipping, caning, and flogging them. For British officials, imperial control over Punjab was vital to the longevity and foothold of the British empire. Punjabi families supplied the bulk of India's manpower in the First World War, their taxes helped finance the conflict, and administrative and military personnel from the region sustained the imperial apparatus across the littoral of the Indian and Pacific Oceans.<sup>10</sup> British repression of Indian

<sup>9</sup> The author completed all calculations.

<sup>10</sup> On Punjab's significance to the British empire, see Mark Condos, *The insecurity state: Punjab and the making of colonial power in British India* (Cambridge, 2017); Thomas Metcalf, *Imperial connections: India in the Indian Ocean arena, 1860–1920* (Berkeley, CA, 2007).

subjects and families in Punjab occurred over the course of some five months when British officials brutally repressed Indian subjects, particularly in five districts: Lahore, Amritsar, Gujranwala, Gujrat, and Lyallpur. The repression in Amritsar garnered the most global attention. Across Punjab, district commissioners relied on emergency legislation, including the new Anarchical and Revolutionary Crimes Act of 1919 (also known as the Rowlatt Act) to detain, suspend, and punish anticolonial activists. The Act, as historian Durba Ghosh shows, was part of the imperial government's efforts to expand emergency legislation as new constitutional reforms were implemented.<sup>11</sup>

British officials used legal frameworks created in the aftermath of the 1857 rebellions and the advent of the Crown to leverage indemnities on Indian subjects and compensate European families in 1919. On 14 April 1919, the day after the Jallianwala Bagh shooting, British officials in Punjab insisted on compensating Europeans who had suffered injury and harm to their person and property. They claimed the Police Act of 1881 provided legal grounds for the local government to employ additional police and offer compensation to subjects who suffered death, harm, and injury by levying charges 'on any locality which is guilty of organized offenses against the public peace'.<sup>12</sup> Initially, the Government of India feared that compensation would 'create a dangerous precedent'. But it conceded to the provincial government's request once S. R. Das, advocate general of Bengal, alleged that legal liability for the Punjab disturbances lay with 'the actual perpetrators of the murderers and those who abetted them'. Das also recommended compensation for 'moral' reasons in cases of death and grievous injury after learning that the Government of Punjab believed the police had taken inadequate precautions to protect Europeans who lost their lives.<sup>13</sup>

The Police Act of 1881 built on the policing and financial powers stipulated by British officials at the advent of Crown rule to financially penalize Indians after the 1857 rebellions and underscored the imperial state's foundational structures of unequal compensation. Following a series of rebellions by sepoys and subjects across the Indian subcontinent in 1857, hundreds of Europeans petitioned the colonial government for compensation following the deaths of family members, theft, and property damage. As authority in colonial

<sup>11</sup> Ghosh, *Gentlemanly terrorists*.

<sup>12</sup> Resolution issued by Government of India, 14 Apr. 1919, cited in Pandit Pearay Hohan, *An imaginary rebellion and how it was suppressed* (Lahore, 1920), pp. 72–4. In 1895, the colonial government amended the Police Act of 1861 with Section 15A, giving magistrates legal authority to compensate any person who lost property, or suffered injury or grievous hurt during 'a riot or unlawful assembly' by placing a tax or indemnity on residents. The Act drew on the Riot (Damages) Act of 1866 in the United Kingdom, a response to the Trafalgar Square riots, and reveals the entangled history of policing in the imperial metropole and colony.

<sup>13</sup> Das's legal opinion held that the colonial government was only liable for issues that arose out of contracts, covenants, or engagements entered on behalf of the secretary of state. Opinion of S. R. Das, Advocate General Bengal High Court to the Government of India, 16 Oct. 1919, in *Papers Regarding the Claims for Compensation Put Forward by the Executors and Relations of Those Who Were Killed During the Riots at Amritsar*, Proceedings, Political, Government of India, Jan. 1920, nos. 179–87. See also letter from the government solicitor, Calcutta, no. 912, 21 Oct. 1919, in the same.

India formally shifted from the British East India Company to the Crown, British officials compensated Europeans in India for the loss of life and property with the intent of securing Britain's imperial foothold in the subcontinent. British officials feared Europeans could flee in the wake of violence and rebellion, and unsettle British rule in a colony perceived as the 'Jewel in the Crown'. In 1859, the Government of India distributed ₹8–10 million to Europeans who experienced property damage or theft during the protests and a small group of Indians who showed acts of loyalty to British troops and their families in Punjab, Bengal, the North-Western Provinces, Oude, Central India, and Rajpootan.<sup>14</sup> The Government of India compensated factory owners, crop owners, and commercial property holders at one-half of market price, and cash, jewels, and personal property at one-third of market value.<sup>15</sup> The Government of India recovered the costs of compensation it paid to Europeans in 1859 by legalizing new policing powers that allowed it to finance state compensation using indemnities and charges levied on colonial subjects. In 1861, the colonial government consolidated executive and police powers in colonial India, and entwined the expansion of state policing powers with financial penalties by placing the financial burden of additional police during 'disturbances' on residents in the Police Act of 1861.

Under the auspices of the 1881 Police Act – which revised the 1861 Police Act to expand the imperial state's policing powers and right to leverage financial penalties on colonial subjects, and nearly a half-century of legal precedent – district magistrates across Punjab used their discretionary authority to distribute ₹480,321 to the widows and children of five Europeans who died in Amritsar and Kasur, and other Europeans who were injured during the 1919 disturbances in Punjab. The magistrates' allocation of payments to Europeans exceeded the terms passed down from Punjab's Legal Remembrancer under the 1881 Police Act, underscoring how European lives were valued at rates exceeding existing laws through discretionary authority exercised by district magistrates. Responsible for advising the provincial government on legal matters, the Legal Remembrancer instructed British officers to compensate European cases of death and 'grievous injury', which often involved the loss or severe damage of limbs. Leaning on discretionary authority, district magistrates in Punjab expanded the categories of compensation provided by the Legal Remembrancer. Punjab's district magistrates distributed ₹43,250 to six Europeans who suffered permanent or temporary injury, fever, shock, fear, miscarriage, and damaged property creating a sum total of ₹523,571 in payment to European families (see [Figure 2](#)).

Imperial officials set payment for Europeans at ₹300,000 (highest), ₹30,000 (lowest), and ₹80,000 (median).<sup>16</sup> The largest payment went to Marcella

<sup>14</sup> On sums allocated by the colonial government in 1859, see Proceedings of the Government in Finances Department, 29 June 1860, East India Accounting Department, no. 5621, 976/1860; *Bombay Times*, 'Editorial', 12 Nov. 1859, p. 2.

<sup>15</sup> The colonial government also received claims from companies, including insurance companies, insisting that the rebellion had wrecked the industry, but it denied the requests, stipulating that 'unrealized profits' did not warrant compensation. *Times of India*, 'Editorial', 12 Nov. 1859, p. 7.

<sup>16</sup> Questions and Answers in Council Re: The Relief Given to the Dependents of Those Killed or Injured at Jallianwalla Bagh, and letter from J. P. Thompson, chief secretary to Government of

Sherwood, a Girls Mission School of the Church of England instructor and Amritsar resident for fifteen years. A group of Punjabi men had pulled Sherwood from her bicycle, physically assaulting her until she became unconscious.<sup>17</sup> Outraged at news of the assault, Dyer ordered every colonial subject to crawl on their stomach while travelling on *Kucha Kaurianwala*, the street where Sherwood was attacked.<sup>18</sup> The punishment for all colonial subjects for the assault and the sum Sherwood received underscored how the imperial project drew power and sustenance from the protection of European women. The largest compensation payment for death was awarded to the widow of Mr Stuart, a manager at the National Bank in Amritsar, who was attacked with a hatchet and stabbed by Indian protesters.<sup>19</sup> The Government of Punjab also agreed to compensate European banks for theft and property damage occurring at the hands of Indian protesters.<sup>20</sup>

British officials relied on civil law rather than police acts to differentiate payments for Europeans and Indians, compensating Indian families with a total sum lower than the smallest payment to a single European family. Employing Article 278A(3) of the Civil Account Code, which authorized the Government of India to sanction one-time payments not exceeding ₹500, the Government of Punjab distributed ₹500 for the death of a family member and approximately ₹300 to those with qualifying permanent injuries. In February 1921, British officials allocated a total of ₹14,050 to dependants of colonial subjects killed at Jallianwala Bagh.<sup>21</sup> Amritsar's district magistrate received ₹10,000 from this total for cases of Indian subjects killed or 'permanently injured' at Jallianwala Bagh. F. H. Burton, district commissioner of Amritsar, assured the government that the money was 'distribut[ed] quietly' in cases that came 'to light through confidential enquiries'.<sup>22</sup> Imperial officials hoped that their silent distribution of payments would thwart new requests and restrict the development of precedent for compensation in the aftermath of state violence.

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Punjab to C. W. Gwynee, Esq., Home Department, Simla, 8 Sept. 1920, in Proceedings, Political, Government of India, Jan. 1920, nos. 179–87.

<sup>17</sup> Sherwood accepted ₹1,500 of the payment awarded to her to cover medical expenses and damage to her bicycle and watch. The press disapproved of the attack on Sherwood and praised her 'just' actions regarding compensation. See, for example, *The Sikh Sepoy*, 'Inqaar Vich Insaaf' (Justice in Denial), 27 Feb. 1920, p. 8.

<sup>18</sup> On the crawling order, see Vinay Lal, 'The incident of the "crawling lane": women in the Punjab disturbances of 1919', *Genders*, 16 (1993), pp. 16–35.

<sup>19</sup> Stuart is also cited as Stewart. His first name is not given. On Stuart's death, see Wagner, *Amritsar 1919*, pp. 107–8.

<sup>20</sup> From the chief secretary, Government of Punjab, to the secretary, Government of India, 17 Oct. 1919, in Papers Regarding the Claims for Compensation Put Forward by the Executors and Relations of Those Who Were Killed During the Riots at Amritsar, Proceedings, Political, Government of India, Jan. 1920, nos. 179–87.

<sup>21</sup> Letter from H. D. Craik, deputy commissioner of Amritsar, to the chief secretary of Punjab, 9 Feb. 1921, in Home, Proceedings, Punjab Government Civil Secretariat, file no. 139, 1921.

<sup>22</sup> Confidential letter from F. H. Burton, deputy commissioner of Amritsar, to C. M. King, commissioner, Lahore Division, 21 Dec. 1920, in Home, Proceedings, Punjab Government Civil Secretariat, file no. 139, 1921.



To assist Punjabis facing financial hardship after British officials refused to provide adequate financial assistance, volunteer organizations spearheaded relief efforts, appealing to families across India for financial donations. On 9 June 1919, when the British government lifted travel restrictions to Punjab and a blackout on press coverage, volunteers from across Punjab and the United Provinces rushed to the most afflicted parts of Punjab. Indian volunteers carried home the dead, aided the injured, and helped locate missing family members, despite threats of charges and fines from British officials. Among volunteers were affiliates of the Sewa Samiti Community of Service, a reformist organization, who travelled to Amritsar, Gurdaspur, Sialkot, and Lahore to collect information from Punjabi families to identify the dead and cremate the unidentified.

The Sewa Samiti raised funds for needy families, listing donors' names in local newspapers until May 1920 to encourage contributions. In one plea submitted to the local press, Swami Shraddhanand, an Arya Samaj reformist and leader of the Sewa Samiti, urged: 'Hundreds of families are still without relief from distress...there is work to be done in giving way to consolations to those disgraced old women whose sons are rotting in jail or to those desolate child widows whose husbands have been separated from them.'<sup>23</sup> The dire situation caught the attention of Mohandas Karamchand Gandhi and Madan Mohan Malaviya, the founder of Benares Hindu University and an Indian National Congress leader, who requested donations. In one letter, Malaviya described the magnitude of the situation: 'Aged parents, young widows and children had been left resourceless and face to face with starvation.'<sup>24</sup> When the Sewa Samiti retired its efforts nearly a year later, residents praised the organization for lifting the 'dark clouds' over Punjab.<sup>25</sup>

## II

In the aftermath of the colonial state's atrocities across Punjab in 1919, the India Office in London, the Government of India in Delhi, the Government of Punjab in Lahore, and district commissioners pursued a formal legal inquiry that recast British officials' violent behaviour as a matter of law and order, and British imperialism as a model of law and order, not a violent enterprise. The imperial state's assessment of its use of force – and subsequent review in cases of 'excess' – by legal inquiry legitimized and expanded the authority of the imperial state and law in colonial India, and prohibited Indian subjects from bringing suit against the imperial government.<sup>26</sup> As accounts of Indian

<sup>23</sup> *The Tribune*, 'Swami Shraddhananda's appeal', 30 Aug. 1919, p. 4.

<sup>24</sup> *The Tribune*, 'News and notes: the Punjab relief fund', 30 July 1919, p. 1.

<sup>25</sup> *Akali*, 'Hunair Vich Chanann' (Light in darkness), 28 May 1920, p. 2. All translations and transliterations from Punjabi and Urdu to English are provided by the author.

<sup>26</sup> See Purnima Bose and Laura Lyons: 'All colonial rule encompasses some measure of force, but only those explicitly violent manifestations of colonialism, deemed unacceptable by colonial authorities, can be contained and politically defused by means of still more colonial rule as embodied law'. Bose and Lyons, 'Dyer consequences: the trope of Amritsar, Ireland, and the lessons of the "minimum" force debate', *boundary 2*, 26 (1999), p. 202.

protests emerged, the point of investigation became when and how British officials could use violent forms of repression to protect European lives and colonial infrastructure. British officials' testimonies produced an archive of the state's management of unrest, creating what anthropologist Michel-Rolph Trouillot calls 'the power in the story'.<sup>27</sup> British officials' historical and legal representation of colonial violence in Punjab allowed the imperial government to script its own narrative of imperial violence and legitimate it using the guise of lawful investigation, underscoring what Renisa Mawani astutely terms the 'double violence of law'.<sup>28</sup>

For colonial authorities in India, a formal legal inquiry maintained the charade that imperial governance was rooted in the lawful exercise of power. While the governments of India and Punjab evaded investigation, the House of Commons narrowed its concerns to the deployment of bombs and guns against colonial subjects. In May 1919, British parliamentarians debated the effectiveness of bombing and mass shootings in Punjab to delineate how much state power was necessary to maintain control of colonial India. Officials in London recast theft, violence, and brutality as an anomaly or rupture in a benevolent, just form of governance.<sup>29</sup> The secretary of state for India, Edwin Montagu, defended bombing as a 'measure of military necessity' and a 'question of dispersing a mob which [was] threatening the lives of women and children who are insufficiently guarded'.<sup>30</sup> But in light of international reporting on the Amritsar massacre, Montagu decided that a formal inquiry into the Punjab atrocities would re-establish confidence in British imperial governance.

British officials in London and Delhi agreed that all British officials should be granted amnesty, regardless of their actions in Punjab. Viceroy Frederic Thesiger (Chelmsford) insisted that the Government of India would agree to a formal inquiry only after the India Office limited its investigation to the aerial bombing of residents in Gujranwala, the firing at Jallianwala Bagh, and public whippings, and only if the Colonial Office guaranteed amnesty to all British officials. The India Office approved the viceroy's request for amnesty, explaining that it would prevent 'malicious persons' from bringing legal suit against colonial officials.<sup>31</sup> Montagu assured the viceroy that he would 'lay great

<sup>27</sup> Michel-Rolph Trouillot, *Silencing the past: power and the production of history* (Boston, MA, 1995), p. 1. See also Mark Condos, 'Remembering the Ajnala massacre: unearthing forgotten tragedies', *South Asian History Review*, 25 (2023), pp. 123–45.

<sup>28</sup> Renisa Mawani, 'Law's archive', *Annual Review of Law and Social Science*, 8 (2012), pp. 337–65.

<sup>29</sup> Scholars have shown how imperial governance was debated in the House of Lords and the House of Commons. Among research that animates this article is Nicholas Dirks, *The scandal of empire: India and the creation of imperial Britain* (Cambridge, 2006); Hussain, *The jurisprudence of emergency*, pp. 99–131; Bernard Semmel, *Jamaican blood and Victorian conscience: the Governor Eyre controversy* (Westport, CT, 1976); and James Walvin, *The Zong: a massacre, the law and the end of slavery* (New Haven, CT, 2011).

<sup>30</sup> The question was raised by Colonel Wedgwood and posed to Secretary of State for India Edwin Montagu, who refused to interfere with the discretion of military authorities. House of Commons Debate, 28 May 1919, vol. 116, p. 1184. On the relationship between bombing and empire, see Sven Lindqvist, *A history of bombing* (New York, NY, 2001); and Priya Satia, 'The defense of inhumanity: air control in Iraq and the British idea of Arabia', *American Historical Review*, 111 (2006), pp. 16–51.

<sup>31</sup> For the text of the indemnity bill, see Pearay, *An imaginary rebellion*, pp. 281–2.

emphasis upon the necessity of restoring order' in his defence of colonial officials.<sup>32</sup> But the Colonial Office, fearing that an 'English audience' would not support such a limited inquiry, denied the viceroy's wish.<sup>33</sup> It insisted that British officials would be investigated for actions and events including crawling orders; firings on crowds in Punjab, Delhi, and Bombay; the declaration of martial law in various districts; the treatment of detained colonial subjects; and whipping, caning, and flogging by colonial officers.<sup>34</sup>

In 1920, the India Office ordered the creation of the Punjab Disorders Committee, thereby recasting atrocities in Punjab as a matter of 'law and order' in a 'disorderly' colony.<sup>35</sup> The Government of India appointed seven lawyers to the committee to determine whether colonial officials' use of physical force, other forms of punishment, and the declaration of martial law were 'necessary'. The committee included ex-solicitor general William Hunter as president; additional secretary to the Government of India (Home Department) W. F. Rice; judge of the High Court (Calcutta) G. C. Rankin; commandant of the Peshawat Division George Barrow; barrister (Bombay High Court) Chimanlal Setalvad; barrister (United Provinces) Pandit Jagat Narayan Mulla; and barrister (Gwalior state) Sultan Ahmed Khan.

Nearly every colonial official defended their decision to authorize firings, bombardment, detention, flogging, and caning under the guise of bringing 'order' to Punjab. Colonial officials in districts where martial law was declared – Punjab, Lahore, Gujranwala, Lyallpur, Gujrat, and Amritsar – answered queries about caning, flogging, whipping, forced saluting, firing, crawling, special tribunals, and military courts. British officials testified that these actions restored order (or intended to) amid 'open rebellion', 'riots', and 'unrest'. Members of the Punjab Disorders Committee inquired about the nature of 'crowds' and 'mobs' to define the threat posed by protesters and assess the credibility of testimony. Colonial officials complied with their leading questions. Justifying his order to shoot Punjabis in Lahore, Colonial Frank Johnson asserted that his decision was 'taken with a view to the maintenance of order'. He noted that the 'crowd' was 'very sullen, very bad-tempered, not to say savage in places'. British officials also described and analysed *hartals* (strikes) and Gandhi's *satyagraha* (non-violence) as 'mob violence', 'an illegal movement', 'anarchy', and 'absolutely anarchy'.<sup>36</sup> Michael O'Dwyer, Punjab's

<sup>32</sup> Telegram from secretary of state to viceroy, 2 May 1919, in India Office Records (IOR), L/PO/6/4, 14 Apr. 1919–17 Nov 1919.

<sup>33</sup> Telegram from secretary of state of India to viceroy, 7 May 1919, in IOR/L/PO/6/4, 14 Apr. 1919–17 Nov. 1919; letter from viceroy, Home Department, to India Office, 12 July 1919, in IOR/L/PJ/6/1629, file 6306.

<sup>34</sup> Letter from Whitehall to Hunter, 11 Sept. 1919, in IOR/L/PO/6/4.

<sup>35</sup> Scholars have foregrounded this relationship between ideas of order and crime to state expansion, consolidation, and emergency powers. Of importance to my conceptual framing are Shahid Amin, *Event, metaphor, memory: Chauri Chaura, 1922-1992* (Berkeley, CA, 1995); Judith Butler, *Notes toward a performative theory of assembly* (Cambridge, 2015); Ghosh, *Gentlemanly terrorists: Stuart Hall, Chas Critcher, Tony Jefferson, John Clarke, and Brian Roberts, Policing the crisis: mugging, the state, and law and order* (London, 1978).

<sup>36</sup> These comments appear throughout testimonies British officers provided to the Punjab Disorders Committee.

governor, testified that a general could justify his actions if he showed that he had acted in 'good faith'. He used the statement to legitimize the rampant use of violence, and indiscriminate shootings and bombings across colonial Punjab.

The Government of Punjab also relied on British legal scholars to claim that its officials were entitled to use any force necessary to 'restore order', without criminal or civil liability in colonial India. In its summary report, the regional government declared that imperial officials relinquished civil authority for martial law in Lahore, Amritsar, Gujranwala, Gujrat, and Lyallpur in 1919 under the 'gravest disorder'. Provincial officers contended that they had legal authority to use force 'to any extent which might be necessary to restore order', without civil or criminal liability under parameters established by British legal scholars.<sup>37</sup> Officials cited Albert Venn Dicey, a law professor at Oxford and leading nineteenth-century constitutional scholar, and James Fitzjames Stephen, a criminal law reformer who worked in Britain and India. The pair represented the loci of legal authority in the colony and metropole.<sup>38</sup>

The Indian National Congress, a leading nationalist organization in colonial India, conducted its own inquiry after the secretary of state refused to release Indian prisoners to testify before the Punjab Disorders Committee.<sup>39</sup> Indian volunteers across Punjab collected and translated nearly 1,700 testimonies into English. A subcommittee of prominent Indian lawyers drafted the testimonies into an official report,<sup>40</sup> condemning British authorities for failing to use 'intermediate steps' to disperse the assembly of Punjabis before firing at Jallianwala Bagh: 'There was no parleying, no humouring, and no use of milder force...in this country, it has become too much the custom with the executive and the military never to run any risk, or to put in another way, to count the Indian life very cheap.' The report also labelled Jallianwala Bagh 'a crime against humanity', and argued that Dyer should be dismissed for ordering the Jallianwala Bagh shooting.<sup>41</sup>

Expressing their opinions on the atrocities, Indian subjects used a vocabulary that differed from the false binaries and characterization of order/disorder employed by colonial officials. Punjabi men and women recounted the months they spent recovering from colonial violence, conveyed their

<sup>37</sup> Section III: The Use of Military Forces and Application of Martial Law in Punjab in Punjab Disorders Inquiry Committee Report 1919–20: Evidence Vol. VI, pp. 109–11. On the viceroy's reference to Dicey, see *Christian Science Monitor*, 'Compensation bill for Punjab riots', 21 Nov. 1919, p. 6.

<sup>38</sup> Albert Venn Dicey, a British Whig jurist, is remembered for his work as a constitutional theorist. James Fitzjames Stephen was a lawyer, judge, writer, and cousin of A. V. Dicey. On Albert Venn Dicey's relationship to emergency and regular law, and James Fitzjames Stephen's ideas of colonial law, see Hussain, *The jurisprudence of emergency*, pp. 35–98; Keally McBride, *Mr. mothercountry: the man who made the rule of law* (New York, NY, 2016).

<sup>39</sup> The requests surprised Montagu who claimed he did not know that the Government of India refused Indian prisoners the right to testify to the Punjab Disorders Inquiry Committee. For correspondence and telegrams related to this debate, see The Punjab Riots: Arrangements for the Conduct of the Hunter Committee Enquiry: Indian Congress Demand for the Release of Prisoners to Enable Them to Give Evidence, in IOR/L/PJ/6/1629, file 6306, July 1919–Feb. 1920.

<sup>40</sup> For the correspondence related to this issue, see *ibid*.

<sup>41</sup> Chapter V: The Martial Law in Report of the Commissioners Appointed by the Punjab Subcommittee of the Indian National Congress, 25 Mar. 1920, pp. 50–8.

humiliation at the hands of imperial officials, and feared that they could be arrested and detained without charge. Some Punjabi families insisted that colonial officials who participated should be tried in court rather than investigated.<sup>42</sup> They invoked wives who lost husbands, sons who watched fathers beaten in prison, doctors prevented from administering medical aid, fathers who searched for their sons not knowing if they were dead or alive, and lawyers who were arrested, lest they provide legal aid. Those present at Jallianwala Bagh and others who searched for the bodies of dead family members recalled moans heard through the night as colonial subjects lay dying. Ratan Devi, a widow, testified that she ran to Jallianwala Bagh after hearing of the firing. She recalled how no one helped carry her husband's body home, fearing they might be shot for violating curfew. Ratan Devi stayed among hundreds of corpses at Jallianwala Bagh on 13 April 1919, listening to the screams of maimed Punjabis to ensure that her husband's corpse would not be eaten by stray dogs. She deplored that her experience was known only to her God.<sup>43</sup>

In its report, the Punjab Subcommittee published photographs of maimed and deceased colonial subjects to re-present colonial state violence in relation to its human toll. These photographs contrasted with those published by colonial administrators that featured empty landscapes, deserted railway lines, and demolished banks.<sup>44</sup> The Ram family, residents of Amritsar, shared a picture of their deceased thirteen-year-old son, Madan Mohan, who was killed following Dyer's order. Madan Mohan went to Jallianwala Bagh to play but never returned. His father, Mani Ram, recovered his body buried under others. Survivors living with permanent injuries sat for photographs and interviews with the Punjab Subcommittee. Allah Ditta recounted how he was near the Gujranwala goods shed searching for relatives when he was wounded by a bomb. After regaining consciousness, Allah Ditta saw four persons between the ages of twelve and fifteen lying dead and another two wounded. He was moved to the civil hospital where his right leg was amputated below the kneecap. Two weeks later, Allah Ditta was arrested and charged with looting and burning the goods shed and sentenced to two years in prison. He was released in August 1919.<sup>45</sup> The Punjab Subcommittee took Allah Ditta's photo, centring the lens on his maimed body and prosthetic leg resting beside him (Figure 1). Allah Ditta's photograph was placed alongside other images of adult men and children who were beaten, arrested, and tortured by colonial officials in the Punjab Subcommittee's report.

<sup>42</sup> See, for example, *Sri Guru Nanak Darshan*, 'Editorial Khabra' (Editorial news), 19 Aug. 1920, 2; *Akali*, 'Doctor Satya Pal Di Thaar' (Doctor Satya Pal's telegram), 3 June 1920, p. 3.

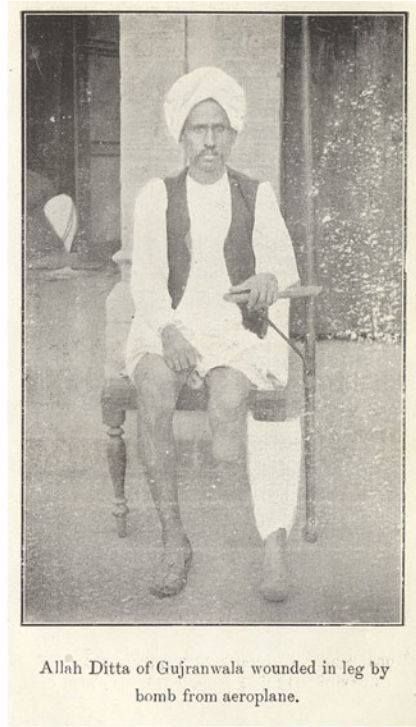
<sup>43</sup> Testimony of Ratan Devi in Report of the Commissioners Appointed by the Punjab Subcommittee of the Indian National Congress, 25 Mar. 1920, pp. 116–17.

<sup>44</sup> Wagner, *Amritsar 1919*, pp. 221–2. For photographs by colonial administrators during the Punjab atrocities, see 'Views of scenes connected with the unrest and massacre at Amritsar', British Library, Photo 39 (44–104).

<sup>45</sup> 'Allah Ditta of Gujranwala wounded in leg by bomb from aeroplane', reproduced from Report of the Commissioners Appointed by the Punjab Subcommittee of the Indian National Congress, 25 Mar. 1920, pp. 420–2.



Madan Mohan, aged 13 years, shot at Jallianwala Bag and killed instantaneously.



Allah Ditta of Gujranwala wounded in leg by bomb from aeroplane.

**Figure 1.** On the left is Madan Mohan with his sister and family members. On the right is Allah Ditta. Report of the Commissioners Appointed by the Punjab Subcommittee of the Indian National Congress, 25 Mar. 1920, pp. 57, 108.

Fearing that a competing report from the Indian National Congress would garner publicity and undermine the imperial government's investigation into the 1919 atrocities across Punjab, the India Office rushed the publication of an official state report. In May 1920, the Punjab Disorders Committee published a seven-volume report, revealing a racial divide between its European and Indian members.<sup>46</sup> The Punjab Disorders Committee invoked the minimum force doctrine, which stipulated that officials were required to use minimum force to establish law and order, to account for state officials' use of violence against colonial subjects.<sup>47</sup> But it was only when officers were sanctioned that they were required to show that they had used restraint, and honoured the minimum force doctrine.<sup>48</sup>

<sup>46</sup> Personal relationships between Indian and European committee members had deteriorated; see Shereen Ilahi, *Imperial violence and the path to independence: India, Ireland, and the Crisis of Empire* (London, 2016), p. 80.

<sup>47</sup> Nick Lloyd, 'The Amritsar massacre and the minimum force debate', *Small Wars and Insurgencies*, 21 (2010), pp. 382–403.

<sup>48</sup> On Dyer's testimony and its relationship to minimum force doctrine, see A. W. Brian Simpson, *Human rights and the end of empire: Britain and the genesis of the European convention* (Oxford, 2004),

The European members' majority report justified colonial officials' decision to whip, harass, flog, and cane colonial subjects, and levy financial penalties on Indian families under the minimum force doctrine and martial law. European members of the Punjab Disorders Committee even asserted that firing should have happened earlier in some cases to prevent further 'disturbances'. The British empire's 'rage for order', as historians Lauren Benton and Lisa Ford characterize it, was instantiated through Britain's global empire of law in colonial conflicts and bureaucracy, rather than legal treatises and case law, and 'operated in much of the world to legitimize British violence'.<sup>49</sup> The case was no different in colonial India following the atrocities in Punjab in 1919. The committee's European members concluded:

While the number of persons arrested and not brought to trial was regrettably large and the period of detention unusually long, on the whole this difficult work was not done badly or oppressively. The disorder was so widespread and serious that its inevitable result was to strain any improvised system.<sup>50</sup>

In a minority report, Indian members claimed that the majority did not understand the 'gravity' of the use of state violence, particularly decisions by colonial officials to flog, cane, implement crawling orders, and conduct widespread arrests.<sup>51</sup> Expressing anger, frustration, and disappointment, Punjabis took to the local press, arguing that the European majority report benefited the British empire by masking the actions of colonial officials, including Reginald Dyer.<sup>52</sup>

While condoning the rampant violence in Punjab, Delhi, and Bombay in early 1919, the Punjab Disorders Committee's European majority drew distinctions with the Jallianwalla Bagh massacre and the Gujranwala bombing. The European majority noted that General Dyer's 'intention to create a moral effect throughout the Punjab' by instructing troops to open fire at Jallianwalla Bagh was 'a mistaken conception of his duty', and that the general had 'committed a grave error'.<sup>53</sup> Despite European officials' attempts to have Dyer explain his decision to order the shooting at Jallianwalla Bagh by invoking a 'disorderly colony', Dyer said he was motivated by concerns that if he did not disperse colonial subjects 'by the force' of arms, colonial subjects would laugh at him.<sup>54</sup> When asked by the committee whether the shooting was a model of 'law and order' in the face of 'complete lawlessness', Dyer stated: 'It was all quiet when I went

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pp. 64–6; and Lloyd, 'The Amritsar massacre'. On the use of minimum force to disperse crowds and use of aircraft, see Sherman, *State violence*, p. 32.

<sup>49</sup> Lauren Benton and Lisa Ford, eds., *Rage for order: the British empire and the origins of international law, 1800–1850* (Cambridge, 2016), p. 5.

<sup>50</sup> Punjab Disorders Inquiry Committee Report 1919–20, p. xxxvi.

<sup>51</sup> Report by the Committee Appointed by the Government of India to Investigate the Disturbances in Punjab, vol. I, 1920, p. 137.

<sup>52</sup> Akali, 'Hunter committee di report chaap rahi hai!' (Hunter's report is being published), 30 May 1920, p. 1. Indian opinions in the press were also compiled in Akali, 'Hunter committee di idaa-lat', (Hunter committee's court), 2 June 1920, p. 1.

<sup>53</sup> Punjab Disorders Inquiry Committee Report 1919–20, p. xx.

<sup>54</sup> Wagner, *Amritsar 1919*, pp. 144–6.

round. After the shooting it soon became a model of law and order.<sup>55</sup> The committee's European members agreed that Dyer's actions exceeded protocols for the use of minimum force. British officials did not try or incriminate Dyer however. The House of Commons censured Dyer and the House of Lords exonerated him.<sup>56</sup>

The committee's European majority also 'deprecated' the decision of district magistrates to use bombs in Gujranwala. The men noted that pilots should have determined if 'crowds' were engaged in violent crime before using airplanes to drop bombs and fire on Indian residents.<sup>57</sup> When the Punjab Disorders Committee asked Captain D. H. M. Carberry, flight commander of the 31 Squadron, why he resorted to machine guns if bombs sufficed to disperse the crowd, Carberry claimed he wanted 'to do more damage', especially to colonial subjects running from the scene.<sup>58</sup> Lieutenant L. Dodkins, the second pilot involved in the shootings, insisted that he had done his duty by dispersing the crowd.<sup>59</sup> Dodkins's and Carberry's testimonies were rebuked by Lieutenant Colonel A. J. Brian, deputy commissioner of Gujranwala, who testified that the bombs 'were dropped rather haphazardly'.<sup>60</sup> The following year, a Government of India memorandum instructed pilots to provide warnings, fire at leaders instead of ordinary civilians, and bring 'order' with 'as little destruction of life as possible'.<sup>61</sup>

The European majority's assessment established that colonial officials could use an arsenal of violent methods, including corporal, financial, and carceral punishment. Except for bombings, the committee's legal findings did not contribute to substantive changes or reform, in theory or practice, and reified the notion that the colonial government was the legal arbiter of colonial misconduct, and that colonial officials could employ an array of violence when responding to colonial 'mobs'. Despite the imperial government condoning the actions of most officers, Indian organizations and legislators, often trained as lawyers, demanded transparency and compensation for Indian subjects. However, since the burden of proof was on Indians, colonial subjects were limited to using the colonial government's findings to supply legal evidence that could legitimate their claim to compensation. These

<sup>55</sup> Dyer stated that it took him thirty seconds to decide on the shooting. He was concerned that a colonial order would be disobeyed and did not consider the number of lives that would be lost. Testimony of Brigadier General R. E. H. Dyer, CB Commanding 45th Brigade, in report by the Committee Appointed by the Government of India to Investigate the Disturbances in Punjab, vol. III, 1920, p. 137. See also Kim A. Wagner, "'Calculated to strike terror': the Amritsar massacre and the spectacle of colonial violence", *Past & Present*, 233 (2016), pp. 185–225.

<sup>56</sup> For a summary of debates and public opinion in London, see Susan Kingsley Kent, 'The Amritsar massacre, 1919–1920', in *Aftershocks: politics and trauma in Britain, 1918–1931* (New York, NY, 2009), pp. 64–90.

<sup>57</sup> See the majority and minority opinions in the report by the Committee Appointed by the Government of India to Investigate the Disturbances in Punjab, vol. I, 1920.

<sup>58</sup> Testimony of Captain D. H. M. Carberry, DFC Flight Commander, No. 31 Squadron, Royal Air Force, in *ibid.*, vol. V, 1920, pp. 38–40.

<sup>59</sup> Testimony of Lieutenant L. Dodkins, observer, Royal Air Force, in *ibid.*, pp. 41–2.

<sup>60</sup> Testimony of Lieutenant Colonel A. J. O'Brien, deputy commissioner of Gujranwala, in *ibid.*, pp. 8–11.

<sup>61</sup> Memorandum on the Use of Aircraft in Aid of Civil Power and Consequent Instructions, Nov. 1921, Home, file no. 55/II, 1922, National Archives of India.



limitations effectively compelled Indians to sanction the validity of imperial inquiry as they appealed for redress and compensation, even though many openly believed imperial inquiries failed Indian subjects' struggle for justice and reform.

When Indian legislators took their seats under newly implemented reforms that followed the Government of India Act of 1919 (the Montagu-Chelmsford reforms), they compelled British officials to reveal the striking racial disparity between payments made to Europeans and Indians following the 1919 atrocities in Punjab. Srinivasa Sastri, a Madras nationalist, and Ganesh Srikrishna Khaparde, a Berari member of the Home Rule League, broached the subject of compensation for Indians in the Imperial Legislative Council. They insisted on a statement on compensation payments made to Europeans and Indians after the Punjab disturbances, demanding a list of the highest, lowest, and average amounts, and compensation paid to widows and orphans.<sup>62</sup>

The Government of India and Government of Punjab prepared an appendix of payments in response to pressure from Indian legislatures revealing that the total sum paid to Indian subjects was less than the lowest payment to a single European family for the loss of one family member, and the average value of a European life was nearly 200 times that of an Indian (Figure 2).<sup>63</sup> The vast disparity in state compensation revealed that Indian lives were simply worth less to British officials. One newspaper in colonial Punjab described the payments as representing the 'meagre value' the British empire attributed to Indian lives.<sup>64</sup> Another outlet claimed that while the colonial government was willing to extract revenue from Punjab, it was unwilling to assist those impacted by the disturbances, including detained farmers who could not maintain their crops.<sup>65</sup>

Following evidence of a racial disparity that many Indian subjects had suspected, nationalist leaders joined grassroots campaigns demanding further compensation and a statement by the Government of India expressing its condolences to Indian families. In October 1920, Satya Pal, a Cambridge-educated doctor, activist, and member of the Indian National Congress who was arrested and detained during the atrocities in Punjab, led a motion in Amritsar Municipality to distribute ₹100,000 to support Punjabis affected by the Jallianwala Bagh shooting.<sup>66</sup> India's two largest political parties, the Indian National Congress and Muslim League, also held their annual meetings in Amritsar to honour the victims and survivors of the Punjab atrocities. At these

<sup>62</sup> Questions and Answers by Srinavas Sastri and G. S. Khaparde, 15 Sept. 1920, Proceedings of the Indian Legislative Council in Questions and Answers in Council Re: The Relief Given to the Dependents of Those Killed or Injured at Jallianwalla Bagh, Notes, Political, Dec. 1920, nos. 79–81.

<sup>63</sup> The average amount paid to European families for the death of a family member was ₹68,617. The average amount paid to an Indian family for the death of a family member was ₹346. The difference between these numbers reveals that European lives were valued at nearly 198 times that of Indians.

<sup>64</sup> *Sri Guru Nanak Darshan*, 'Sarkari Mudad' (Government assistance), 23 Sept. 1920, p. 5.

<sup>65</sup> *Panch*, 'Kaathlai Lai Harzaana Paap Hai' (Payment for murders is sin), 6 Oct. 1920, p. 3.

<sup>66</sup> *Akali*, 'Khabar' (News), 10 Oct. 1920, p. 3. See also *Akali*, 'Desi Athe Valayathi Jindriah De Mul' (The price of European and Indian lives), 4 Dec. 1920, p. 1.

**APPENDIX I.**  
**Statement.**

	<b>Rs.</b>
(A) Number of cases in which assistance has so far been rendered by Government to dependents of needy persons killed at the Jallianwala Bagh is ... ..	40
(i) The greatest amount paid to an individual is ... ..	500
(ii) The least amount paid to an individual is ... ..	200
(iii) The average amount paid is ... ..	346
(B) The total amount paid as relief in the case of Europeans who were injured is ...	43,250
(i) The greatest amount paid is ... ..	20,000
(ii) The least amount paid is ... ..	750
(iii) The average amount paid is ... ..	7,208
(C) The total amount paid as relief in the case of Europeans who lost their lives is ...	4,80,321
(i) The greatest amount paid is ... ..	20,000
(ii) The least amount paid is ... ..	321
(iii) The average amount paid is ... ..	68,617

\* This has been taken at Rs. 10 to the pound.

**Figure 2.** Questions and Answers by Srinavas Sastri and G. S. Khaparde, 15 Sept. 1920, Proceedings of the Indian Legislative Council in Questions and Answers in Council Re: The Relief Given to the Dependents of Those Killed or Injured at Jallianwala Bagh, Notes, Political, Dec. 1920, nos. 79–81, National Archives of India.

meetings, the Indian National Congress called on the Government of India to issue a statement on the massacre and express condolences to relatives of slain European and Indian subjects. The Indian National Congress even purchased land at Jallianwala Bagh to ‘perpetuate the memory of those who were killed or wounded’. But lacking funds to build a memorial, the Indian National Congress left the land in a trust, hoping a memorial would be built in the future.<sup>67</sup>

In 1921, Indian legislators reframed demands for compensation for Indian subjects who survived the 1919 atrocities in Punjab in terms of racial equity and insisted the Government of India issue a statement of ‘regret’. Indian legislators likely borrowed the language of racial equity and equal partnership from the racial equality clause submitted by the Japanese delegation during

<sup>67</sup> A memorial at Jallianwala Bagh was built in the 1950s. On how the Indian National Congress crafted a narrative of national grievance by weaving Jallianwala Bagh into poetry, prose, and iconic imagery, see Sherman, *State violence*, pp. 20–1.

the 1919 Paris Peace Conference, and new reform measures sought by Indians to eliminate 'racial distinctions' in Indian criminal procedures.<sup>68</sup> In January 1921, Jamnadas Dwarkadas, an advocate of the Home Rule League and member of the Indian Legislative Assembly, moved a bill for racial equity. Meanwhile, Frederic Chelmsford, India's governor-general, insisted that dependants of victims at Jallianwala Bagh did not have the same statutory right of compensation as victims of mob violence.<sup>69</sup> Dwarkadas maintained that the relationship between the British empire and India was one of 'equal partnership and perfect racial equity', with 'Indian lives and Indian honour being held as sacred as British lives and honour'. British officials were to compensate the families of '[Indians] killed and injured at Jallianwala Bagh and other places on the same scale as those Europeans who had suffered or were killed during the Punjab Disturbances'.<sup>70</sup> Many Indians, supporting Dwarkadas's bill, urged the colonial government to recognize the atrocities committed by its own officers across Punjab.<sup>71</sup>

Indian demands for compensation in colonial Punjab grew as new information came to light through the Punjab Legislative Council's advocacy. On 15 February 1921, the colonial government submitted an account of the colonial government's payments to Indians and Europeans in 1919, responding to demands by Rai Bahadur Bakshi Sohan Lal, a Punjab Legislative Council member from Jullundur, for more information. The colonial government was compelled to further reveal that European cases involving smaller injuries and property damage exceeded the value of an Indian life, and that the colonial government compensated Indian families only in cases of death.<sup>72</sup> In contrast, district magistrates had compensated European families for various injuries, mental trauma, and property damage.

Indian legislators pursued their demands for compensation in the form of legislative redress rather than bringing suit against the Government of India, believing that a legal case would compel them to the courts and procedures governed by Europeans.<sup>73</sup> The Punjab Legislative Council passed a resolution

<sup>68</sup> For the Legal Reform Committee, which concluded its work in 1922, see Report of the Committee Appointed to Consider the Racial Distinctions in Criminal Procedure Applicable to Indians and Non-Indians, in V/26/144/1, <https://discovery.nationalarchives.gov.uk/details/r/3633850d-e65d-4016-924e-ec243e5bd1a4>.

<sup>69</sup> *The Tribune*, 'William Vincent', 17 Jan. 1921, p. 4.

<sup>70</sup> *The Tribune*, 'The Legislative Assembly', 21 Jan. 1921, p. 3.

<sup>71</sup> *Panch Lahore*, 'Punjab De Zalmai Da Zikar Council Vich' (Discussion of the crimes done to Punjab in the Legislative Council), 23 Feb. 1921, p. 2.

<sup>72</sup> There were also two individuals, Kishan Singh and Hardit Singh, who received compensation for 'wounds' in Amritsar. British officials made payments in Ahmedabad and Viramgam in Bombay, in Delhi, and the districts of Lahore, Gujranwala, Amritsar, Sheikhpura in Punjab. In the case of all districts except Indians in Amritsar, the cases were assessed, and figures determined by the district magistrate. In the case of Amritsar, Lala Rattan Chand and Sheikh Ghulam Sadiq, honorary magistrates, assessed a few cases. The cases outside Amritsar and Gujranwala pertained predominately to the loss of material property. See Proceedings for May 1921, Home, Political, no. 52, file no. 139.

<sup>73</sup> This was outlined in Section 65 of the Government of India Act 1858. The provision was extended in the Government of India Act 1915 under Section 32.

to establish a three-member committee with legal knowledge and judicial experience to 'propose adequate compensation to families of those killed or injured at the Jallianwalla Bagh and other places during the Punjab disturbances of 1919, on the scale followed in similar cases for Europeans'. Bahadur Raja Narendra Nath asserted that Indians 'arrested without the least justification merely to satisfy the whim of some officers' receive compensation. Mian Muhammad Shah Nawaz, another member of the Punjab Legislative Council, insisted that the colonial government compensate Indians who 'were subjected to the barbarous and inhumane process of crawling like reptiles', 'innocent respectable men' incarcerated, a marriage party that had been flogged, and students forced to march up to sixteen miles a day in the hot sun. Nawaz maintained, 'If the Government sincerely desires to heal old sores, to strengthen the old ties, to remove bitter memories and associations, to create a greater mutual confidence and goodwill, it must compensate the victims of Martial Law'.<sup>74</sup>

### III

The government's reluctant approval of compensation for Indian subjects, shaped by concerns for political stability in colonial India and Punjab rather than a commitment to racial equality or justice for Indian subjects, was the first of its kind in colonial India and the British empire perhaps. Following the First World War, British officials worried about political protests in colonial India and growing support for nationalist parties. The Indian Legislative Assembly accepted the motion 'to propose adequate compensation to the families of those killed and to those injured at the Jallianwalla Bagh and other places during the Punjab Disturbances of 1919 on the scale followed in similar cases for Europeans' and organized a Compensation Committee to manage the task. The Assembly accepted the motion amid debate over how to define 'suffered' and 'injury'.<sup>75</sup> While British officials publicly supported equal compensation payments for Indians, in private, they agreed that compensation for Indian families was 'part of the Government's general policy of assuming a conciliatory attitude in regard to the "Punjab wrongs" and creating a more friendly political atmosphere generally'.<sup>76</sup>

By May 1921, a Compensation Committee organized by the Government of Punjab gathered claims from Indians. The committee, comprised of H. P. Tollington, the commissioner of Lahore, as president; and Raja Narindra Nath, Maulvi Moharram Ali Chisti, Chaudhuri Muhammad Amin, and Bakshi Tek Chand, included trained lawyers and members of the Punjab Legislative Council. The Legal Remembrancer of Punjab, T. P. Ellis, directed the men on how to prescribe monetary values to claims submitted by Punjabi families for male family members. Ellis's note is the only legal document I was able to find detailing the Government of India's guidelines for

<sup>74</sup> Government of Punjab, Punjab Legislative Council, 26 Mar. 1921, pp. 426–9.

<sup>75</sup> Government of Punjab, Punjab Legislative Council, resolution passed 16 Mar. 1921.

<sup>76</sup> Letter from C. W. Gwynne, Government of India to the Home Department, 8 Mar. 1922, in Notes, Political, Government of India, file no. 333, serial 1–13.

the committee. In his short note, Ellis instructed the committee to accept claims for two categories of harm: grievous injury and death. In the Indian Penal Code passed in 1862, 'grievous hurt' included: emasculation; permanent privation of the sight of either eye; permanent privation of the hearing of either ear; privation of any member or joint; permanent impairing of the powers of any member or joint; permanent disfiguration of the head or face; fracture or dislocation of a bone or tooth; and any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.<sup>77</sup>

Ellis and government officials in Punjab capitalized the value of colonial lives by rooting them in racialized actuarial science, practices that were used in contemporary insurance, pensions, and workmen's compensation to define what the state imagined as valuable in humans: the market value of a person's labour. Ellis instructed the committee to calculate compensation for grievous injury by adding the pecuniary loss occasioned by the injury, costs for a person's pain and suffering, diminished capacity for the enjoyment of life, and a diminished income.<sup>78</sup> Regarding family deaths, Ellis directed the Compensation Committee to rely on actuarial science to value the life of a person in relation to their annual income or prospected income and life expectancy, and then divide the payment between dependants after subtracting one share for the person who had passed. The colonial government did not stipulate provisions for Indian women and children. It also approved compensation for damaged or lost property at market rate and property damages according to the decline from market value.

The Compensation Committee began collecting claims but placed the burdens of travel and proof on Indian colonial families, instructing Punjabis to submit applications for compensation with details and evidence for their claims before 20 July 1920. Colonial subjects were then required to travel to Amritsar, Gujranwala, or Lahore where their injuries and disabilities were examined alongside their claims and medical documentation. Once the Compensation Committee received a claim from a family, it checked the claimant's name against a list of dead and wounded subjects prepared by district commissioners in 1919 and verified medical certificates and proof of medical expenditures. The committee recorded each claim by name, caste, age, residence, death/injury, the number of dependants, annual income, relationship status, and occupation. The governments of India and Punjab and the India Office did not archive materials that the Compensation Committee used to assess the value of each claim, and it is uncertain if additional documents survive. Still, existing information about the demographics of claimants and the payment attached to their claims reveal intricate details about Indians who were killed or maimed in colonial Punjab.

The Compensation Committee assessed 745 claims from Punjabi families between July 1921 and early 1922. Most women who submitted claims as widows were in their twenties and thirties, and children who lost fathers or

<sup>77</sup> See Chapter XVI of offences affecting the human body in the Indian Penal Code, 1860.

<sup>78</sup> Note by T. P. Ellis in Notes, Political, Government of India, file no. 333, serial 1–13.

mothers ranged from one year to their twenties. Parents who lost children varied in age from their mid-thirties to seventies. One man called Mangtu appears twice in the compensation report for the death of his son and grandson, Abdul and Khair Dhin, revealing how some Punjabi families lost more than one family member during the atrocities. Colonial subjects reported injuries that ranged from permanent disfigurement, amputated limbs, bullet wounds, and permanent disabilities and loss of bodily functions. Colonial officials valued permanent injuries requiring surgeries and amputations at the highest rates, while bullet wounds were compensated at lower rates. In Gujranwala, thirty-five-year-old Azim Baksha was left with a disabled leg. Chuni Lal, aged nine, was wounded by bombs and firing. Thirty-four-year-old Kishen Chang, injured on the arm and face, was described as 'permanently disfigured'. Sardari Lal, a student whose age is unlisted, required amputation of his left arm. The Compensation Committee's valuation of injuries shows that arms were valued at higher rates than shoulders, fingers, and thighs, and arms were valued at twice the rate of hands and on par with amputated and disabled legs.

In December 1921, the Compensation Committee inquired whether compensation for Europeans in 1919 included cases that did not qualify as death or grievous hurt, such as fright or minor injuries, and questioned whether property damage and theft should be included. The committee was perplexed by the central government's motion related to compensation:

What again is meant by the words 'in similar cases'? Does it mean that Indians were to be compensated in cases where they would have been compensated had they been Europeans? Or does it mean that deaths, injuries, losses, etc., were to be compensated, respectively, on the principles laid down in 1919?<sup>79</sup>

The Committee exercised its own discretionary interpretation of the legal parameters established by the central government. For example, it assigned a principal amount of ₹16,725 to all women, children, and unemployed men who died during the atrocities and rendered smaller payments in cases that straddled grievous hurt and death. Taj Din, a twenty-four-year-old Rajput shopkeeper shot at Jallianwala Bagh, received medical treatment for one year before he died. The Compensation Committee did not allocate money for medical treatment, loss of work, pain, and suffering but assigned a capitalized value based on his income, knowing that Taj Din's family spent a considerable sum on his treatment. Near Amritsar, twenty-two-year-old Maharaj Mal, a grain merchant, suffered what the Compensation Committee described as 'permanent disfigurement' and an injury that 'Looks as if he would not live. Lower jaw broken.'<sup>80</sup> Predicting that Mal's family would lose its primary source of income

<sup>79</sup> A. Langley to chief secretary to Government, Punjab, 22 Dec. 1921, in Payment of Compensation to the Families of Those Killed and Injured in the Punjab Disturbances of 1919, May 1922, Home, Punjab Government Civil Secretariat, file no. 58.

<sup>80</sup> These cases are scattered throughout the Compensation Committee's Report and are pulled from various pages for assessment. See Payment of Compensation to the Families of Those

upon his death, the Compensation Committee compensated Maharaj Mal for medical treatment and loss of work.

Some Punjabi families found the colonial government's compensation process difficult and untrustworthy while others demanded imperial reform. An unnamed widow, presenting a claim on behalf of her deceased husband who was shot at Jallianwala Bagh, reported that the Compensation Committee characterized her husband as a thief.<sup>81</sup> Many Indians whose testimonies were compiled by the Punjab Subcommittee did not appear on the Compensation Committee's lists, highlighting two possibilities: their cases were denied, or they did not submit claims.<sup>82</sup> According to the vernacular press, some families feared that the compensation scheme was an attempt to punish colonial subjects who participated in protests and assemblies in Punjab. Others believed that compensation from the colonial government was 'blood money' for 'a sin that could never be forgiven'.<sup>83</sup>

Submitting its completed report to the Punjab Government in December 1921, the Compensation Committee observed: 'The object of the Committee has been to assess [compensation claims] in a systematic manner and in a liberal spirit but not extravagantly.' The committee encountered opposition from the governments of Punjab and India, which sought to narrow the scope and number of claims.<sup>84</sup> Officials in Punjab criticized the committee's report as 'inclined to be over-generous to the point of extravagance', and added that it included 'doubtful' cases.<sup>85</sup> British officials debated ways to narrow the committee's claims collection. C. M. King, the commissioner of Lahore, declared that compensation would not be paid to Indians as it had to Europeans. King claimed the term 'injury', debated in the Punjab Legislative Council, only applied to 'the number of persons who were unlawfully imprisoned, kept under wrongful restraint, or unnecessarily humiliated at the hands of Government officers' and not to those 'lawfully' convicted by tribunals, military commissions, or courts under martial law. According to Langley, using a 'narrower interpretation' of injury would upset 'popular feeling'.<sup>86</sup> E. D. Maclagan, governor of Punjab and member of the Executive Council of

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Killed and to Those Injured in the Disturbances of 1919, Notes, Political, Government of India, file no. 333, serial 1-13, 36.

<sup>81</sup> *The Tribune*, 'The Compensation Committee', 21 Aug. 1921, p. 1.

<sup>82</sup> I derive my analysis herein of testimonies and the compensation report by moving between the Compensation Report and the Punjab Subcommittee Report. For the Compensation Committee's report, see the Amritsar riots 1919: compensation claims for damages caused during the riots, May 1919-May 1925, IOR/L/PJ/6/1650, file 787: May 1919-May 1925.

<sup>83</sup> *Akali*, 'Kaathlai Le Hurzaana Laina Paap Hai' (It is sin to accept compensation for murder), 12 Aug. 1921, p. 1.

<sup>84</sup> From A. Langley, commissioner, Lahore, to chief secretary to the Government of Punjab, 14 May 1921, in Payment of Compensation to the Families of Those Killed and Injured in the Punjab Disturbances of 1919, May 1922, Home, Punjab Government Civil Secretariat, file no. 58.

<sup>85</sup> For correspondence between colonial officials employed with the Government of Punjab, see Notes, Political, Government of India, file no. 333, serial 1-13.

<sup>86</sup> A. Langley, commissioner, Lahore Division, to the chief secretary to Government, Punjab, 14 May 1921, in Payment of Compensation to the Families of Those Killed and Injured in the Punjab Disturbances of 1919, May 1922, Home, Punjab Government Civil Secretariat, file no. 58.

the province, disagreed: 'Everyone in the Council knew that injured meant "physically injured".'<sup>87</sup>

British officials in Punjab also disapproved of the Compensation Committee's decision to accept claims that were not related to the Jallianwala Bagh shooting and Gujranwala bombing. These included instances where colonial subjects were fired on in Amritsar, Lahore, and Sheikhupura, and bombed in Kasur. The Government of Punjab argued that the Punjab Disorders Committee had justified these firings and bombing, rendering compensation to Indian survivors unnecessary. Punjab's Executive Council floated proposals to separate compensation for colonial subjects at Jallianwala Bagh and Gujranwala from others, remove the cases of children and other minors, property, pain and suffering, and dependants who were not family to lower the total cost of compensation payments. Officials could refuse the assessments, they noted, stating that the government could not afford the payments or revise the principles of the Compensation Committee. One official suggested making a pro rata reduction to every case.

While seeking avenues to narrow the scope and amount of compensation to Punjabi families, British officials cast further doubt on compensation claims submitted by Indians. 'The instructions of 1919 [for the Compensation Committee], it may be observed, do not take any account of the doctrine of solatium in the case of death, but assess the loss to the survivors on a cold commercial basis', officials declared. E. Joseph, chief secretary to the Government of Punjab, rejected the Compensation Committee's decision to provide a principal value for dead children in the same amount as a nominal wage earner, deeming it 'a matter of comparative unimportance by what method the figure is arrived at'. One British official deplored that it was 'again difficult to see how the earning capacity of a shopkeeper, or piece-goods merchant with one leg is so enormously reduced by the operation'.<sup>88</sup>

British officials in the Government of India expressed frustration with the Compensation Committee's assessments but conceded to the committee's evaluations. Describing the committee's proposals as 'unduly liberal', the Government of India noted that it would create 'a very bad precedent' in circumstances where 'firing [was] found necessary by troops or police'. The chief secretary of Punjab, defending the compensation payments, insisted that while there was 'the apparent extravagance of certain items', his government worried that compensation claims 'led to expectations which it would be unwise to disappoint'. The struggle between the Government of Punjab and the Government of India revealed tensions between provincial officers increasingly concerned with their power and control over Punjab and the central government as it sought to manage the prospect of precedent for compensation. The Government of India held its position but agreed to allow the Government of Punjab to compensate colonial subjects there, stipulating

<sup>87</sup> From the Punjab Executive Council to the commissioner, Lahore, 26 May 1921, in *Payment of Compensation to the Families of Those Killed and Injured in the Punjab Disturbances of 1919*, May 1922, Home, Punjab Government Civil Secretariat, file no. 58.

<sup>88</sup> Notes, Political, Government of India, file no. 333, serial 1–13.



that payments were not approved by the Government of India, and that provincial funds would cover the cost.<sup>89</sup> Between 24 and 29 July 1922, S. Devinder Singh, magistrate and treasury officer of Amritsar, discreetly distributed payments to dependants and families of those killed or injured at Jallianwala Bagh, Gujranwala, Amritsar, Kasur, and Lahore. *The Tribune*, Punjab's largest English paper, hoped they would provide 'some little comfort and assistance to the victims of official excesses; and that is all that can be said for it, for after all the values of life or limb cannot be measured in terms of rupees, annas, and pies'.<sup>90</sup>

#### IV

In 2019, on the centennial of the Punjab atrocities, advocates, including British Indians, called on the British government to issue an apology and compensation for the Amritsar massacre. Since 1920, when British Secretary of State Winston Churchill, sitting in London, described the massacre at Jallianwala Bagh as 'a monstrous event' 'without precedent or parallel in the modern history of the British Empire' until today, British officials have expressed regret, remorse, and shame but have stopped short of issuing a state apology.<sup>91</sup> In 2017, London's Mayor Sadiq Khan became the first British official of prominence to visit the memorial at Jallianwala Bagh and insist that Britain make a 'full and formal apology' to the people of India for the Jallianwala Bagh massacre.<sup>92</sup>

British officials have consistently exhibited a reluctance towards accepting liability and establishing precedent. The obscured history of precedent, remorse, and compensation following the Punjab atrocities – captured primarily within the private correspondence of British officers rather than in the more transparent legal inquiries – barely registers in many historical narratives. British officials in the early twentieth century directed historical attention to singular sites of imperial violence rather than the history of an empire built on state violence. They also navigated claims for compensation within legal constructs influenced by imperial priorities which perpetuated racial disparities through the suppression of colonial subjects.

Modern structures of redress produced within the crucible of empire left an inheritance of racial difference. For former imperial metropolises, geopolitical considerations mimic the considerations of the British government in the aftermath of atrocities in Punjab. Practices of redress are tethered to concerns that have shifted from sustaining empire to sustaining its history and logics within the structures of modern governance. Imperial metropolises in Europe, the United States, and elsewhere require the descendants of slavery and colonialism to seek redress in ways that place the burden of proof and labour on

<sup>89</sup> For correspondence between the Government of Punjab and the Government of India, see Payment of Compensation to the Families of Those Killed and Injured in the Punjab Disturbances of 1919, Home, Punjab Civil Secretariat, file no. 58, June 1922.

<sup>90</sup> *The Tribune*, 'Note and comments: compensation to martial law sufferers', 25 July 1922, p. 1.

<sup>91</sup> Statement of Winston Churchill, House of Commons Debate, 8 July 1920.

<sup>92</sup> City Hall Blog, 'Mayor calls for an apology of Jallianwala Bagh massacre', 6 Dec. 2017.

those who are already marginalized. Responses by the state reveal how imperial practices structured according to race, gender, and class discrimination and political concerns continue to infuse contemporary law, legal practice, and normative codes governing compensation and claims for restitution, reparations, reparative justice, and redress. Despite its shrinking territorial control over the last century, the sun has yet to set on the legal edifice of the British empire.

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