

**Define and Rule: Native as Political Identity,
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Chroniclers of the British Empire foreground the momentous shift in policy, from direct to indirect rule, occasioned by developments in India in the year 1857. It was in this year that except 7,796 of the 139,000, sepoys of the Bengal Army in a spectacular uprising, known as the Sepoy Mutiny, turned against their British masters. Colonial authority was indeed challenged in that singular historical moment of the mutiny but, more significantly, the very logic and foundational ethic of the colonial project had been rendered banal. Responsibility for formulating anew the logic of colonial rule and thus redeeming Empire from its mid-nineteenth-century crisis fell on the best of British colonial minds. In their bid to rest the colonial project on a more enduring framework these colonial thinkers denounced the difference effacing pulse of the civilising mission by recommending instead, as an antidote, the recognition and protection of difference. Thus, the transition from direct to indirect rule epitomised, in terms of policy, the attempt to render the colonial enterprise as more secure. The figure of Sir Henry Maine was key in the intellectual endeavour to reconstitute the colonial architecture. His contribution was significant far beyond serving as the bedrock for a number of policy measures instituted throughout the British Empire from the 1857 crisis onwards, in that his works became compulsory reading for colonial administrators.

In this short but enlightening book of three chapters that began their life as Du Bois memorial lectures, Mahmood Mamdani, maps the history of what he refers to as “a new form of colonial governmentality born in the aftermath of the mid-nineteenth-century crisis of colonialism” (pp. 6). A critical exposition of the new logic and ethic of colonial rule as it evolved from the pen of Sir Henry Maine in India to that of the Dutch scholar Christiaan Snouck Hurgronje, “whose object of reflection was the Dutch imperial project in Aceh in the East Indies” is offered in the first chapter (pp. 2). In the main, Maine wrote in response to the 1857 crisis of Empire in India. He begins his attempt to rehabilitate the colonial project by seeking first to diagnose the real cause of the crisis. And this he found to be the failure of analysis “a failure to understand the

nature of native Indian religious and social belief” (pp. 9). This ‘defect of knowledge’ was itself a consequence of two related developments: an over-reliance by Orientalists studying native institutions and culture on Sanskrit texts rather than observing the daily lives of natives. Moreover, even when they did gesture toward observing daily life, Orientalists erroneously focused their inquiry lenses exclusively on “the more urbanized and cosmopolitan coast as opposed to the more rural and traditional hinterland” (pp. 9).

Unknown to Orientalists, the hinterland, ‘real India’ as Maine called it, was home to the real native, virgin of foreign corrupting influence. For this reason he held the hinterland to be a more reliable repository of authentic native cultural and religious knowledge. Thus, to restore historicity and agency to the colonised it is to the ‘real India’ that one must turn for clues on Indian law and custom. As Maine proceeds with his task of recovering authentic India he inadvertently paints an elaborate portrait of the native. Locked in a separate conceptual world, the native - unlike the settler who is defined by history - is defined by geography. Unlike the settler who habits the modern dynamic world of civilisation, the native is construed as a function of culture – “culture thought of as part of nature, fixed and unchanging” (pp. 6). In the world of the native, abstract civil law is an anathema; it is the “despotism of usage” or custom that rules. These claims by Maine point to the fact that native is not a primordial or originary condition, but a construct; it is “the creation of theorists of an empire-in-crisis”, concludes Mamdani (pp. 6).

Maine deploys a series of conceptual binaries to paint the imaginary figure of the native and make sense of the non-Western world in which it dwells. In this wise the modern, civilised West becomes the condition of possibility for the not yet, primitive, customary, non-West. To accentuate the distance between the two worlds of the native and the settler Maine turned to a theory of history and a theory of law. Mamdani notes that in this mode of thought, “the social became the privileged theoretical arena for understanding the nature and dynamics of society in the West” (pp. 14). Conversely, culture and geography became the key concepts with which to make sense of the native and the non-West generally.

Mamdani retrieves from Maine’s different intellectual works a multi-layered argument which has been advanced to establish the credentials of the West as the progressive, dynamic, and civilised part of the world. The non-West emerges in the process as its Other: a stationary, custom-bound and backward looking place of culture. At this point Maine appealed to the theory of legal evolution according to which law generally evolves from an unwritten customary affair to written codes in order to lend conceptual depth to his distinction between the progressive West and the stationary non-West. The task of codifying law is the responsibility of aristocracies. In the West they did this successfully. Primarily because the ruling oligarchies in India tended to become religious, rather than civil, the rigidity of primitive law “arising chiefly from its early association and identification with religion” continues to pin society to the earliest forms of habiting the world (pp. 15).

Maine over and above holding the West as an exemplar of progress valorised it as an exception in human social evolution. To substantiate this claim he turned to the theory of history by asserting that: “the stationary condition of the human race is the rule, the progressive, the exception” (pp. 16). With evident self-satisfaction, he upheld the West as an epitome of that exceptionality. Further, to establish the stationary, non-progressive character of the non-West, Maine focussed on kinship which is held to be a principal political factor signifying primitivity. Kinship, he recognised, served not only as the bond knitting natural groups together; beyond that, it governed the processes by which new groups were integrated into the original group. For this reason he would characterise kinship as legal fiction. The kernel of Maine’s argument was that societies where kinship is the norm stand at the beginning of historical time. In these ancient societies individuals had no standing but were accorded status as members of a particular group. Notably, Maine’s analysis of kinship societies inverts Marx’s earlier conclusion that modern industrial societies were the mirror in looking at primitive societies recognised their future image. For Maine, the reverse held true: “the primitive condition of the progressive societies is best ascertained from the observable condition of those which are non-progressive” (pp. 19).

If kinship served to root non-progressive societies in their primitive state, the transition from ‘Status to Contract’ signalled the movement of progressive societies forward (pp. 19). Essentially, the distance between status and contract is one between two kinds of laws: culture-bound customary law and abstract civil law. The latter is liberated from the strictures of time and circumstance; it thus dynamises society. However, the former, because it is context-bound and unchanging, hinders civilisation. Maine, at this juncture, felt sufficiently armed to launch his critique against liberal Utilitarians - purveyors of the civilising mission. Of their many defaults, the inability to discern the specificity of the primitive Indian society and the non-West generally was the most grave. Impelled forward by ignorance they assumed all societies to be attended by the same notion of sovereignty where the sovereign legislates, imposes duty and threatens sanction where the law is disobeyed. This rendered even more pronounced, remarked Maine, their lack of insight essential to properly governing customarily organised societies where the sovereign does not legislate but rather “the great bulk of men derive their rules of life from the customs of their village or city” (pp. 23). This deficit in knowledge caused Utilitarians to impose abstract civil law on Indian natives, thereby alerting them to the fact that they lived under foreign Western rule – hence, the mid-nineteenth-century crisis of Empire.

The goal, ultimately, for Maine was to help salvage the Empire from its crisis. Queen Victoria’s Proclamation of 1858, captures the essence of the Empire’s response to the crisis. At the core of the response was the doctrine of non-interference in matters pertaining to the private domain and religion more particularly. However, as Mamdani demonstrates, the doctrine of non-interference soon turned into a license for unfettered interference as

the colonising power arrogated unto itself the responsibility for specifying that in which it will not interfere; secondly, the content of the authentic religion with which there was to be no interference and, lastly, the authority designated to preserve religion in its pure form. In effect, the principle of non-interference left colonial authority with added power. This includes the power to specify those (often groups) who were to be protected. With time the will to protect turned into a technology of governance, i.e. indirect rule. Under indirect rule the preoccupation was consequently no longer to civilise but to preserve, not to assimilate but to protect. However, the indirect rule state was more than just a benevolent protector of groups and custom. The now expanded logic of such a state was “to remake subjectivities so as to realign its bearers. This was no longer just divide and rule. It was define and rule”, explains Mamdani (pp. 42). It is this reformulated logic and ethic of colonial rule that the Dutch Arabist Hurgronje elaborates in Aceh in the East Indies in 1891 in order to help resolve the problems plaguing Dutch rule.

Formulated in India in the aftermath of the 1857 crisis, indirect rule as a new form of governmentality *a la* Foucault had as its main concern the definition and reproduction of difference as custom. If India provided the material for its theory, Africa was the theatre where its performance was perfected. Suggestively titled ‘*Nativism: The Practice*,’ the second chapter shifts focus away from the theoreticians of indirect rule in India and the East Indies to Africa, Sudan in particular, for a nuanced analysis of how it managed and reproduced difference in practice. In this chapter, the author creatively works over the same material in his earlier work **Saviours and Survivors: Darfur, Politics and the War on Terror**, to a slightly different effect.

To remake colonial identities the indirect rule state spoke the language of law, distinguishing first between natives (herded into different tribes) and non-natives (said to belong to races). Segregated further, natives (tribes) were horizontally categorised into indigenes (native) and settlers (non-native) depending on whether one was indigenous to a particular locality or not. Notably, the distinction between races and tribes gave birth to and was itself sustained by a regime of legal plurality. Under this regime, races lived under a single law: civil law. Tribes were ruled through customary law but “there was never a single customary law to govern all tribes as natives...there were thus as many sets of customary laws as there were said to be tribes” (pp. 47-48). What the plurality of customary laws ensured was that cultural difference was preserved, reinforced and reproduced through the local state – native authority. The distinction between native and non-native tribes was not an idle administrative trite. It conferred on native tribes an exclusive set of privileges unavailable to non-native tribes, chief amongst those being the right of access to land.

Mamdani points out that, at an intellectual level, colonial rule was underwritten by a tendentious form of colonial historiography. The moral of this historiography was that Africa was a place mired in historical stagnation without any evidence of historical movement forward. Where such movement occurred, the impetus of necessity emanated

from the outside – “with light skinned or fine featured migrants from the north civilising natives to the South” (pp. 54). This Hamitic Hypothesis, as Mamdani labels it, was patronised by both colonial and nationalist historians. In Sudan it was the colonial administrator Harold MacMichael who gave to the thesis its most elaborate scholarly articulation. In the two-volume study named **History of the Arabs in Sudan** he wrote the history of Sudan as that of ‘Arabisation’. According to MacMichael, it was Arab immigration from outside Sudan that catalysed the society’s movement forward and consequently conferred upon it a new historical identity, i.e. Arabic language, culture and genealogy. Following the example set by a number of archaeologists, anthropologists and political scientists, Mamdani stitches together a brief outline of an alternative historiography. Fleshed out more fully in his earlier book **Saviours and Survivors** its major propositions were: rather than lead to Arabisation, early immigration into Nubia and Beja by Arab refugees was to result in de-Arabisation as these immigrants adopted the languages of their hosts; in addition, a myriad of factors including the recruitment of royal slaves into the state bureaucracy and the system of land grants (*bakura*), which institutionalised individual tenure, ensured the transformation of the sultanate of Dar Fur into a trans-tribal and multi-ethnic social formation.

As further evidence for the de-tribal nature of Sudan, Mamdani briefly traces the history of the rise and fall of the Mahdiyya – “a broad anti-imperialist alliance of a multitude of ethnic groups” (pp. 65). With its cadres drawn from the Arab north, from the West (Darfur and Kordofan) as well as the South and regions bordering it (the Nuba Mountains) its trans-cultural and multi-ethnic character immobilised the logic of indirect rule. As a consequence, when the British finally defeated the Mahdiyya Movement at the battle of Omdurman, to forestall a recurrence and bring the lessons of 1857 India to bear, they tribalised Darfur. Darfur province, writes Mamdani, “was parcelled into a series of homelands, *dars*, each identified with a tribe administratively tagged as native” (pp. 71).

As to be expected, colonial rule triggered an anticolonial response aimed at decolonisation. Decolonisation was often defined by the twin-tasks of reforming the indirect rule state as well as re-writing colonial historiography which underpinned the colonial enterprise. By anticolonial logic, the reformation of the colonial state was the responsibility of the political class, and the re-writing colonial historiography was deemed the task of the intelligentsia. In the concluding chapter Mamdani critically analyses two exemplary efforts: firstly, to deconstruct colonial historiography by the Nigerian historian Yusuf Bala Usman and, secondly, to reform the colonial state by Mwalimu Julius Nyerere the first President of Tanzania.

Usman earns focus in the chapter for his labour towards an alternative African historiography. In this regard, his first intervention was to problematise the related questions of historical sources and authorial objectivity. As Usman argued that if oral sources in African history needed to be approached with a certain element of

circumspect, the same critical attitude was called for in reading “the written records of European travellers, traders, missionaries, companies, governments and their agents” (pp. 89). His point was simply that not only oral but also written sources were susceptible to bias. His second notable intervention was to critique the deployment within history of the discourse of tradition. This notion of tradition, amongst other things, served to normalise the prejudice that African societies were stagnant or unchanging prior to external intervention. Through his study of the history of Katsina, beginning in the fourteenth century, he archived the long process of identity formation and change within the larger context of societal change. Furthermore, Usman mastered enough evidence from the (genealogical) history of the Fulfulde-speaking Fulani, the Hausa speaking Habe and other groups to prove that ethnic groups did not constitute the natural and/or basic units of society in pre-colonial Africa as most historians tended to think.

Mamdani ends the book by challenging the conventional reading of President Nyerere’s legacy. Rather than read Nyerere’s legacy through the common - somewhat jaded - prism of a failed socialist experiment (Ujamaa) he represents him as a successful reformer of the colonial state. Integral to this process of reform was the abolition of all race-based distinctions in law as well as ethnic based distinctions in customary law. As a corollary, Nyerere embarked on a political project to smash native authorities. While Nyerere’s nation-building reforms fundamentally transformed the colonial state, abolishing in the process both the settler and the native, their limit was to compromise the democratic project.

With **Define and Rule** Mamdani has certainly added a new layer to the existing repertoire of the late colonial state. Here, however, are a few major problems with Mamdani’s otherwise illuminating analysis. To begin with, Mamdani writes of colonialism, in his earlier texts as well, i.e. **Citizen and Subject** as though it were only a formal political process guided in its unfolding by the colonial state and its leading *dramatis personae* acting out or enforcing their will on hapless natives. Thus, because Mamdani privileges the colonial state and its institutions in his analysis he limits his reading of colonial thought/discourse to the official colonial archive - writings of public colonial state officials - in this instance, that of Sir Henry Maine. In this process, he edits out writings and activities of non-state colonial figures, actors and intellectuals. Therefore, when Mamdani claims that the desire to remake colonial subjectivities emerges in and through the logic of the indirect rule state it is because his obsessive gaze on the official colonial archive, colonial state and its formal institutions does not permit him to look beyond state-centred processes, especially non-political cultural spaces. Interestingly it is in these spaces where, through various disciplining practices, the concern had from conception been the making and re-making of colonial subjectivities long before the shift towards indirect rule.

Mamdani roots the concern with colonial subjectivities exclusively within the ambit of the indirect rule state; he states that “[U]nlike the preceding era of direct rule, its ambitions (meaning the indirect rule state) were vast: to shape the subjectivities of the colonised population” (pp. 8). Later in the text he argues that “[T]he focus of colonial power, after 1857, was to define colonial subjectivity...Key to understanding the form of governmentality pioneered by Maine is the relationship between law and subjectivity” (pp. 44). Contrary to the above claim evidence from anthropological studies suggest an ever present concern with compiling official ethnographic records, recasting modes of self-identification and the ways-of-being of the colonised. All of these were colonial practices and rituals within and through which subjectivities of the natives were constructed. This resulted in a contradictory process which at once aimed at civilising natives while serving to naturalise ‘tribal’ difference.

The second problematic aspect of Mamdani’s analysis is that, in his reading of the official colonial archive, he distils views of public colonial state officials as self-contained in and of themselves outside of the much larger and longer intellectual history of European colonial thought. To substantiate this, Mamdani locates both the discourse and challenge of difference squarely within the geography and temporality of the indirect rule state. More precisely, he holds indirect rule to be a *sine qua non* for the challenge of difference. This is how he makes the point: “[I] argue that it is under indirect rule colonialism that the definition and management of difference was developed as the essence of governance” (pp. 2). Elsewhere in the text he restates the point by claiming that “[T]he language of pluralism and difference is born in and of the colonial experience” (pp. 44). To clinch the argument he turns to Sir Henry Maine, a key theoretician of indirect rule, whose main contribution was arguably to render an already existent discourse of difference more productive rather than originate it.

We do now know from history that Europe’s encounter with the non-West, Africa specifically, since the 1500s has been enabled, if not governed by, a set of ideas constructing this part of the world as its Other. It is this same discourse of difference that mercantile Europe turns to in order to rationalise enslaving and subjugating non-Western peoples (treating them as non-beings, essentially) when it had discovered for itself norms of human difference. Thus, when European Enlightenment reason accentuates the distinction between the civilised West and the unhistorical non-West it was itself drawing on an already existent discourse of difference. While Maine’s ideas and the discourse of difference as it emerges within the indirect rule state may have their own specificity they must be located within this much longer and larger intellectual history of thought, which is not the preserve solely of colonial state officials, in order for them to gain their fuller meaning. In this way we shall realise that Maine was actually being typical when he distinguished the progressive West from the stationary non-West. In the same breath, we shall see the paradoxical nature of the direct rule state which, in the face of promised sameness (assimilation), continued through the grammar of tribalism and anthropological studies to manufacture, reproduce and essentialise difference.