

Construing Urban Space as ‘Public’ in Colonial India: Some Notes from the Punjab

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This article presents of a small number of legal cases from the nineteenth and twentieth centuries in which the English term and concept ‘public’ was applied to a building or spatial practice in a Punjabi city. These cases illustrate a number of different ways the concept of public space refracted through more long-standing indigenous concepts and spatial practices in Punjab. They also reveal how the institutionalization of ‘public space’ as a prerogative of colonial municipal authority gradually changed the configurations and meanings of those shared spaces that were a traditional feature of every Indian city. These colonial-era cases thus point to the ‘newness’ of public space - as both a concept and a corporeal substance - and its associated urban phenomena in late-nineteenth century India. Finally, the article points to connections between the colonial history of public space and more recent deployments of that term in struggles over space in contemporary South Asian cities.

Use of the term ‘public space’ to describe municipally-owned urban land is commonplace in many parts of the world today. Use of the term to describe more metaphorical things - ‘public space’ as an incorporeal realm of political engagement, for example - is also commonplace. While this essay is more concerned with the former usage, the latter illustrates how context-dependent the term is, and how alternate meanings may remain submerged in ordinary usage. Even though the term is context-sensitive, the ‘public’ part of ‘public space’ constrains its possible meanings and endows the term with a particular historicity. As political theorist Seyla Benhabib reminds us, ‘whatever other applications and resonances they might have, the terms ‘public,’ ‘public space’, [and] ‘res publica’ will never lose their intimate rootedness in the domain of [Western] political life.’¹

The concept of ‘public’ accrued its particular meanings throughout a long history, one that stretches back to Western classical antiquity and forward to the present. It is important to remember, however, that the concept developed within a relatively narrow geographical and cultural context. Widespread use of the term ‘public’ to describe a type of urban space, one accessible to all of a town’s residents and owned by none in particular, probably began in medieval northern Europe. A legal distinction between ‘private’ and ‘public’ forms of urban property was codified as early as the thirteenth century in England, and appears elsewhere around the same time.² Defining and codifying types of urban property acquired importance during a sustained period of urbanization in Europe, a process that also gave rise to new kinds of municipal institutions. By

the late medieval period, the term 'public space' had acquired a set of distinctive connotations that linked it with municipal authority.

It was during this period that municipal authorities first began to extend their scope of interest to the management of public life. By setting fixed locations for markets, regulating exchange, and imposing controls over social activity in towns, one recent group of scholars has argued, municipal authorities helped constitute the physical attributes of public space in towns, and imbued it with particular qualities:

For example, municipal regulations about streetwalking, begging, or gambling, all of which multiplied in the late medieval period, served both to define the legitimate market and to constitute public space in specific ways. . . .public space was closed for certain kinds of exchange and opened for others. The 'public' became associated with spaces that were, by definition, risk-averse, propertied, and sexually restricted.³

The association of urban public space with municipal order and the protection of propertied interests has been durable. It remains meaningful in Western cities today. It has also become meaningful beyond its original context, in areas colonized by European powers. Despite its relatively narrow geographical and historical origins, therefore, 'public space' has become common currency in cities across the globe. Nevertheless, to recite an earlier point, the many 'resonances and applications' the term has acquired in its extension across the globe all necessarily point back to a particular 'domain of political life.'

In this essay, I consider the processes through which certain urban spaces came to be called 'public' in colonial Punjab.⁴ In particular, I will argue that public space became a new object of discourse in Indian cities during the late nineteenth century, while India was under British colonial rule. Prior to this period, Indian cities had physical spaces that were shared in common, accessible to all or most of the city's residents, and in many ways physically identical to what the colonial government would later call 'public' urban space. Newness, in other words, did not derive from novel physical arrangements of space or entirely unprecedented protocols of use. Rather, by naming certain urban properties and spaces 'public,' drafting rules governing what activities could take place there, and enforcing these rules through new urban institutions the colonial government created both a concept and a corporeal substance – 'public space' - that had no prior history in the Indian city. While pre-colonial and colonial urban spaces may have sometimes looked the same, in other words, invisible differences between the two were significant.

The Indian metropolis contained many of the same phenomena that prompted urban reforms in nineteenth-century European cities, including crowding, filth, and social promiscuity. Despite what were remarkable similarities, however, the parallels between Indian and European cities were seldom explicitly drawn. British observers saw the indigenous districts of Indian cities - with what they deemed to be filthy bazaars and inscrutably tangled streets - as indicative of a faulty society. Urban dwellers were considered to be

indifferent to their surroundings, lacking in civic spirit, and prone by both race and environmental circumstance to harbor transmittable diseases. At the same time, both British *and* Indian intellectuals interested in the social artifact of 'the city' (and the concomitant social worlds that term implied), assumed that social life in the Indian city was more malleable, less tied to custom and superstition, than social life in Indian villages.⁵ If social life was malleable, moreover, then reshaping the everyday environment of the city held out the promise of reshaping the very core of society.

Nevertheless, colonial officials were reluctant to intervene physically in the indigenous quarters of cities. The colonial government had no hesitation, however, reshaping the legal traditions governing urban space and property. In colonial India, the most important institution for governing the legal affairs of a city was the Municipal Committee, a body comprised of elected members drawn from the city's Indian and European communities.⁶ Municipal Committees were formed beginning in 1862, and they initiated a new regime of municipal record-keeping and control over building activity in towns and cities. From that point onward, municipalities passed by-laws governing the placement of, and uses allowed in, new or remodeled buildings and streets. These by-laws derived from standards established in Britain, for the most part, and they replaced a range of pre-existing spatial practices in the Punjab urban context whose origins go back most directly to Mughal - and later, Sikh - custom. While there is not space here to discuss the important question of what those previous practices were, and research has barely begun on this question, suffice it to say that the colonial city in India was produced over time through separate, sometimes overlapping notions about the proper relationship between society and its material containers. Urban reform in colonial India thus entailed radical changes in the way the city was conceived, if not always in the way it actually looked.

In what follows, I explore changes in the conception of one dimension of city life by analyzing a small number of legal cases in which a liberal Anglo-European notion of the 'public'- and the spatial qualities associated with this notion - was put in place in the colonial city as a series of propositions about who could do what where, and under what authority. While my examples are all drawn from cities in Punjab province, the general processes they elucidate were broadly shared across British India, at least in every city large enough to have a Municipal Committee. In the cases that follow, I focus on both the different interpretations of the term 'public' at play in each case, and on the process of translation from one domain of urban practice to another that each case entailed. These interpretations and translations came about in Punjab, as in the rest of colonial India, as a result of the colonial government requiring different traditions of owning, inhabiting, and conceptualizing space in north India to be reduced to a common legal frame, one enshrined in English common law practice and the corresponding notion of 'good government' it upheld.

In British legal tradition, good government implied to the protection of the 'public' good - or 'public interest' - from the depredations of sectarian or purely private self-interest. Other traditions of governance co-existed with this legal tradition in India, but during the colonial period the prerogative to protect rights

based on a liberal notion of the 'public'- and to identify certain physical spaces and objects as themselves possessing qualities of 'public-ness' - was dominant and, importantly, enforced through legal codes. This fact produced fundamental constraints on the way people could conceptualize the relationship between society and space in the colonial city, and forced older traditions of spatial practice to alter.

My first example illustrates the nature of those constraints by showing how the notion of 'public' was used over time, in increasingly sophisticated ways, to authorize practices that derived from more longstanding urban practices in India for which the notion of 'public' was previously irrelevant. Consider the case of Nabi Baksh, a shopkeeper from Sialkot who built a mosque without permission on land owned by the British government in Sialkot's Sadar Bazaar.⁷ Before the building was fully plastered, in March 1874, Baksh was asked by the colonial authorities to stop construction, which he appears to have done. Some days later, however, Baksh and several Muslim shop-keepers from his neighborhood petitioned the government to allow them to finish the mosque and begin using it. Baksh promised that the mosque would 'not be used as a place of public prayer;' rather, according to the report, the mosque was to be used 'purely for the private accommodation and convenience of [himself and his friends]' (142). The officer in charge reluctantly agreed to this restricted use until it became apparent several weeks later that the *azan* [call to prayer] was regularly being called from the mosque, and 'the public generally in the bazaar' was using the mosque.

Baksh was called back in by the municipal authority, and this time he was ordered to post a 500 rupee surety bond guaranteeing that he would not have the *azan* called at the mosque again. He responded by writing a petition that reversed his earlier claim in important ways: 'This masjid [mosque] is not my private property, but property devoted to pious uses. For this reason I object to give security. . . No Muslim law prohibits [worship because of] fear or other scruples. No masjid is the private property of any person...nor do I invite anyone to pray in this masjid - and from this date, I will not go there myself.' He continued: 'I have no manner of authority to prevent people from resorting to it, but you have authority to make such arrangements as you please, [but remember that] there are five masjids in the cantonment, and 184 in the city; the *azan* is heard in all of them' (144).

I do not have access to Baksh's original petition; an English translation is all that is recorded in the government file on the case. Usage of the word 'public' in the translated petition suggests that Baksh had a remarkable grasp over central elements of the new municipal regime he was forced to frame his argument within. This skill, I would argue, is crucial to understanding the history of colonial urbanism in India. In the first place, notice that Baksh was careful to disavow any purely private claims on the appropriated land in his petition. Instead, he argued that the mosque was a pious endowment for the benefit of the community and, by tradition, the building thereby acquired qualities that placed the regulation of its use outside his private authority - just as a range of other spaces in the city were, according to colonial law, beyond the reach of merely

private control. Secondly, if authority was to be exercised to keep people from using the mosque, then Baksh implied that such authority would have to derive from caprice or superior might, rather than from any benevolent conception of public good: as Baksh put it - and not without irony - the government had the authority to 'make arrangements as [it] please[d]' (144). And finally, in the concluding passage of his petition, Baksh made an appeal to yet another central tenet of the tradition he found himself subject to. He wrote: 'In 1858 there was a large assembly, and the Queen's proclamation was read. I recollect it was therein written that Government would not interfere with anyone's religion. However, You are ruler and judge. And I am your subject. Act as you please' (144). What pleased the authorities, in this case, was a 500 rupee bond, which Baksh was required to pay.

This first example dates from the 1870s, and I have noted the word 'public' appears only in the translation of Baksh's original petition - we don't know what term he actually used. The case illustrates, I believe, how certain features of a liberal notion of public-ness - its antithetical relationship to private interest, its putative openness to all members of the urban community - could be selectively translated and re-deployed to support claims that derived from outside that tradition, even when the concept of 'community' Baksh upheld was not coincident with British notions of the 'public.' By the 1880s, and possibly earlier, the term 'public,' along with its new connotations, were commonplace in disputes over the use of urban land in Punjab. To illustrate the point, I want to consider a case that arose in Hoshiarpur, beginning in 1885.

According to colonial records, a resident of that city named Hamir Chand, in a 'very flagrant fashion, invaded the rights of the public by erecting a wall, so as to take possession of a well, [which he admits is] public property.'⁸ The well Hamir Chand enclosed with his wall was located on part of a public lane; and his wall was built in such a way as to make it appear that part of the public lane was his private property. This event seemed, on the surface, to be a simple case of illegal encroachment. The details of the case reveal that Hamir Chand's actions were far more complicated than that, however. They provide a different example of the way colonial cities in India acquired their particular form through negotiation with the concepts and institutions that authorized colonial rule.

In the first place, and much to the surprise of higher authorities, the Municipal Committee of Hoshiarpur was divided over what action to take on the matter. The European and Muslim members of the committee were in favor of removing the newly constructed wall, while the majority Hindu members 'joined sides with the offender, and voted that no interference should be attempted.'⁹ After two unsuccessful attempts to get the Municipal Committee to reconsider their vote, the Deputy Commissioner (DC) of the District formally intervened in the case. His first action was to ask Ram Nath, a trusted Hindu judge in the District Court, to ascertain the facts of the case since, the DC reasoned, 'it is . . . desirable that an officer of Hamir Chand's own religion should inquire into the case' - an idea that needed, apparently, no further explanation.¹⁰ The judge discovered that Hamir Chand knowingly built the wall

on a public thoroughfare, but that he nevertheless had no intention of prohibiting Muslims or anyone else from using the well. It also emerged that Chand had been advised by his lawyer friends that since the Municipal Committee had decided in his favor, he could not be legally compelled to remove his wall. Finally, the judge concluded his investigation by observing that 'there appears to be no religious disputes in this matter, [indeed] Hamir Chand's Hindu enemies are at the bottom [of this].'¹¹

The Deputy Commissioner, an Irishman named Reginald Clark, was uncertain about how to proceed: '[Hamir Chand] acted deliberately throughout in defiance of the law . . . I should insist on the [removal of the wall]. But how to compel him? He has taken legal advice and thinks that with a majority of the Committee in his favor he can snap his fingers at the Deputy Commissioner and the minority.' Moreover, Hamir Chand's legal advice turned out to be accurate, and there was very little the Deputy Commissioner could do to legally compel Chand to remove the obstruction. A new Municipal Act which would have allowed the DC to dismiss the Municipal Committee outright under extraordinary circumstances was not yet in effect in Hoshiarpur. In addition, it was doubtful that Hamir Chand could be convicted on criminal charges unless 'the District Magistrate will condescend to pack the jury,' Clark wrote, adding that 'as an Irishman, I reprobate [such a] process, having seen what it leads to.' The only remedy seemed to be to let 'any one who feels himself injured by the well being enclosed [seek redress in Civil Court].'¹²

The latter remedy was rejected out of hand by Punjab's Lieutenant Governor, the province's highest official. The Governor's secretary wrote the following: 'The case appears to the Lieutenant-Governor to be a very gross one, in which it is not right that private persons shall be left to obtain their [public rights] by resource to the Civil Courts. The Municipality are the guardians of the public interests committed to their care. On the supposition, which seems to be clearly established, that the well is a public well, and the street a public street, the proceedings of the [Municipal] Committee are manifestly illegal, and it is the duty of the . . . Government to require them to amend their proceedings.'¹³ After this rebuke from the Governor, the Municipal Committee in Hoshiarpur met once again to vote on the matter - and once again decided not to proceed against Hamir Chand's obstruction.

By virtue of their failure to guard 'the public interests committed to their care,' the Municipal Committee was next put on notice that unless steps were taken to have the obstructions removed within 15 days, they would be dissolved as a body and a newly constituted committee put in their place. This authoritarian action was sanctioned under a new Municipal Act, which was simultaneously extended by Government decree to cover the municipality of Hoshiarpur. As a first step in the process, the Governor annulled all former resolutions passed by the committee allowing Hamir Chand's wall to remain standing. 'His Honor considers that two things are essential,' wrote the Governor's secretary in a final memo on the case; 'First, the Municipal Committee must do its duty, and secondly, the public rights should be substantially vindicated and secured.'¹⁴ Under pressure of prosecution, and nine

months after the case first received notice, the Municipal Committee of Hoshiarpur finally forced Hamir Chand to remove his wall. In a poetic gesture of disapproval, Chand removed all but three inches of the offending wall, something the Committee agreed to ignore.

The case of Hamir Chand is interesting for several reasons. His actions were sanctioned by a majority of elected members of the Hoshiarpur Municipal Committee. While the committee was split between a Hindu majority, and a Muslim and European minority, a District Court judge sent to inquire about the case concluded there were 'no religious disputes in this matter.' That conclusion, importantly, was by and large accepted by the superior authorities. Instead, the issue revolved around two separate points. First was the issue of Hamir Chand's private 'absorption' of 'public rights' by obstructing a 'public' lane. Second was the question of whether or not the Municipal Committee had acted legally by sanctioning Chand's actions.

Note that until the Governor extended a new Act to include the municipality of Hoshiarpur, the city's Municipal Committee did indeed act within the law. Accordingly, the Committee's majority decision to sanction Hamir Chand's wall has to be seen as a particular interpretation of the proper use of public space, though one which challenged the notion of 'public interests' the Committee was expected to uphold. This is why the only challenge available to the District Commissioner, Reginald Clarke, was to try Hamir Chand in criminal court. In Clarke's opinion, however, the only way to secure a conviction would be to 'pack the jury' - something Clark, 'as an Irishman,' and thus himself a subject of British colonial rule - could not support on moral grounds. In the end, the 'public interests' recognized by the state could only be secured by superceding the elected Committee's authority, annulling their resolutions, and threatening the Committee with dissolution. This was a high-handed - indeed illiberal - resort to superior force, in other words, and it indicates how far the colonial government was willing to go in an effort to secure its own definition of what constituted the 'public' interest.

The Hamir Chand case also illustrates an increasingly sophisticated use by Indian subjects of the legal apparatus of the colonial state as a mechanism for positing the legitimacy of values, attachments, and customary practices that were incommensurate with British traditions. There were a number of ambivalences built into concepts like the 'public', and people were quick to exploit these. The particular ambivalence Hamir Chand seems to have targeted is the notion that 'public interest' was something that could be decided upon by taking a vote, since elected authority, by definition, upheld the public interest. While on the surface of things this assumption does not appear to be particularly ambivalent, the final disposition of the case illustrates that the liberal tradition that grounded the definition of 'public' space in the city - like all philosophical and practical traditions - had to secure its ends through a continual struggle to define terms. One wonders, for instance, what course District Commissioner Clarke would have taken had he not be self-consciously 'Irish', something he drew attention to in an official government document. It seems clear that Clarke's personal history was equally decisive in the history of this case as any

static definition of 'a' liberal tradition. The result of the Hoshiarpur Municipal Committee's negotiation with that tradition has to be seen, therefore, as part of the historical process by which Anglo-European traditions of community organization and policing extended their claims in the colonial setting rather than an example of the corruption of public interest, as observers at the time chose to see it.

A final example illustrates some of the points I've already raised. At the same time, the case illustrates how the difficulty of translating between new and old practices, foreign and local concepts in the city can lead to the perception of wrongdoing. As I will argue in my conclusion, charges of municipal wrongdoing - often generically glossed as 'corruption' - may be an important effect of the historical process I have been tracing. The collection of records on this final case was prompted by an article published in an Urdu-language daily, the *Paisa Akhbar*, on June 22, 1927. The article was entitled, '*Baldia Lahore ko Dhoka*' ('Municipality of Lahore Deceived').¹⁵ The author of the article claimed that the widow of Ram Mal, the owner of a *janj ghar* (wedding hall) in the city, was renting out rooms in the hall for personal profit rather than providing the hall to the public for its use. The latter was a condition of the owner's original agreement when he purchased the property from the municipality some years earlier, and the author of the article insisted that if his accusation was true, then the president of the municipality should take measures to protect the public interest.

The accusatory article prompted research into the matter, which revealed that this particular case had begun more than twenty years earlier. At that time, in 1906, a Ram Rakha Mal requested permission to purchase a small property owned by the Municipality which fronted onto a house he owned. 'I propose converting the property owned by me into a public reception room for the accommodation of strangers visiting the city', Mal wrote, 'and if the Municipality will kindly allow me to purchase the property owned by them, it will enable me to improve the place and afford greater accommodation.'¹⁶ Ram Mal was fulfilling a charitable request by his father, who left money at the time of his death to endow a 'public' facility for the use of visitors to the city, 'as there is no inn or any other place especially set apart in the center of the city for such [purposes],' Mal wrote. 'As the object for which I am making this request is charitable,' he continued, 'I am sure the Municipal Committee will oblige me by acceding to my request.'¹⁷

The property Mal wanted to buy included a small shed-like structure with three rooms, a building the Municipality used to house its fire engine and a few employees connected with it. Suitable space could be found to relocate the engine nearby, Mal argued, and eventually the Municipal Committee agreed. Under the initial draft agreement worked out between Mal and the city, the former was to pay for the property, and the building materials on the property. In all, the amount came to around 1650 rupees, an amount that Mal found 'excessive', but which he nevertheless agreed to pay.¹⁸ By the time a second, more formal agreement had been drafted, several months later, the price had risen by 600 rupees. The case languished for a period of a few years at this

point, and debate was had over whether to require Mal to also pay for the construction of a new fire shed. In the final agreement, Mal was required to pay for the new construction in addition to the land and buildings on the old site. The amount had almost doubled from the original estimate, to about Rs. 3200. Mal reluctantly agreed to this final figure, and he deposited the money in the Municipality's account in September, 1915, nine years after his initial request was written.¹⁹

More time passed. The agreement with Mal was refined, altered, and made more detrimental to him, which he did not object to. Instead, Mal began to complain about the time the whole process had taken. 'I have waited all through these years to build this useful, charitable rest-house for the public visiting the capital of the Punjab,' Mal complained in a letter written around the time he made his deposit, 'but [I] have not been able to do so up to this time.'²⁰ Throughout the lengthy negotiations over the price of the land, and the elaboration of conditions under which Mal could acquire it (including a provision that would require him to give the land back if the city ever needed it again), the underlying benevolence of the project was never questioned. 'The land must be sold to the applicant because it is for charitable purposes and it is not particularly used by the committee', wrote Mool Chand, a member of the Committee, in 1913.²¹ The same year, Mohammad Shafi, a distinguished jurist and Municipal Committee member wrote that 'the object which Lala Ram Rakha Mal has in view being a laudable one and the public spirit which he is showing in spending a large sum for the benefit of travelers and others being one worthy of encouragement, I am of the opinion that the land should be given to him on easy terms.'²² Once the money was in hand, the Municipal Committee began building a new fire engine shed on a nearby plot, and Mal was asked to wait until that was completed before taking over possession of the old shed.

A few months into the construction project, however, another city resident, Sukh Dyal, sued the city for blocking his right of access to his property given the placement of the new building. His suit stuck, and the case was appealed several times.²³ This suit extended the *janj ghar* process two more years, during which time Ram Mal was unable to possess the building he had more than adequately paid for. In addition, during the wait, another survey was carried out on the property Mal had purchased that showed it to be slightly larger than originally described. This meant that the agreement with Mal had to be drafted over again. Shortly thereafter, the new agreement went missing in the City Engineer's office, having been misplaced at the back of an open *almirah*, leaving Ram Mal without any record in the case.

Two years further on, in August 1919, Ram Mal wrote the following note to the Municipality: 'Sir, I beg to state that I paid your price of a city fire station building purchased from you long ago. You have neither given me possession of it nor the house is registered up to now. Please note that I shall hold you responsible for rent from the date I paid you the price.'²⁴ This letter seems to have prompted action, and in August of 1919, the paperwork was rediscovered.²⁵ This allowed Ram to take possession of his property for the first time. His possession was not legally registered, however, until 1923. The entire process -

from Mal's original request to the registration of his deed to the land - had taken seventeen years.

Ram Mal died in 1925, two years after the process was complete. In his will, Mal attached the income from other properties he owned in the city to insure that the *janj ghar* could be run as a charitable institution. When this was revealed to the President of the Municipal Committee, who inquired into the case in 1927 in response to the newspaper article I referred to earlier, Ram Mal's widow was acquitted of any suspicion of private gain.²⁶ Ram Mal's *janj ghar* disappears from the historical record at this point, after accumulating a file that stretched over 21 years.

My purpose in describing this final case is two-fold. First, notice how the term 'public' is appropriated and given new meanings by Ram Mal's effort to carry out his father's pious wish. A public rest-house, often called a *janj ghar* and sometimes called by another term, is a stable fixture in towns and villages of the Punjab. These are usually endowed by private persons, but dedicated to the use of whomever is in need. Ram Mal and the Municipal Committee members continually referred to the 'public' nature of his project, a reference that served in each case to underscore its suitability to the interests of the city government. In 1927, when a complaint was lodged in a Lahore newspaper over the suspected violation of the terms of the building's deed, it was once again the 'public' who was said to be aggrieved. Each of these statements help assimilate a traditional piece of urban furniture into the orbit of 'public' spaces authorized in British municipal law.

Secondly, I have underlined the extraordinary length of time it took to transact the sale of a small property and construct a simple 30' x 60' shed on a new site - twenty one years - in order to call into question the presumed efficiency of the colonial municipal government in comparison to either pre-colonial urban polities or those of the postcolonial state. The process was slowed down in several ways: first by discussion over whether the uses proposed by Mal were appropriate justification for selling municipal land; next, by the filing of a suit by a third party over the infringement of his 'public rights of way' caused by the placement of the new city fire shed; and finally by prolonged efforts to restrict Ram Mal's rights over access to surrounding space, the terms of possession he could enjoy, and the final cost he should be made to pay. We shall set aside the addition of two years to the process caused by Ram Mal's agreement getting lost in the city engineer's office.

These delays reveal a growing sophistication in the use of civil courts to adjudicate questions of public right by the city's residents. Certainly that is how we should understand Sukh Dyal's suit over the placement of the new fire station. But I think the delays also reveal the difficulty of translating a space like the *janj ghar* - by placing limits on the rights of possession, by calculating the costs it should entail, and by developing a range of enforceable legal instruments to describe it - into an object endowed with the status of a 'public' space.

In the colonial city, these kinds of translations were ubiquitous; they also helped produce the urban space of the *contemporary* Indian city in important

ways. Understanding the difficulty entailed in this process of translation opens up a possibility for seeing something more than official 'corruption' laying behind many of the contentious spatial practices that characterize contemporary urban life in South Asia, particularly those which entail struggles over the illegal, improper, or unwarranted use of urban space. Indeed, in every large South Asian city public rights-of-way are regularly taken over by vendors, vacant lots are illegally built upon, and public streets are obstructed to provide space for private occupations. The term most-often used to describe these violations, 'encroachment,' derives from the French *croc*, cognate to the English word 'crook', and has come to mean the advance - gradual or otherwise - beyond 'due limits.' What these limits are, as this article has argued, depends on the particular traditions of property ownership and use, as well as on mechanisms for marking and enforcing spatial boundaries that separate private from public uses in any given setting.

Encroachment is uniformly denounced by every political candidate for municipal office. In every large city in South Asia, a week does not go by without a letter being published in a local newspaper calling for action to be taken against encroachers. At irregular intervals, sudden - and often violent - anti-encroachment campaigns are carried out to remove illegal occupations from city streets.²⁷ Conversely, encroachment is sometimes denounced in thinly veiled tones of admiration; there is a certain pleasure involved in subverting authority, after all, and the more brazen the violation, the more likely complaints about it may be saturated with irony. There is an almost constant discourse in the popular press, however, around local authority's attempts and failures to order, administer, and control space in the Indian city. This kind of discourse is framed most often in an idiom that mixes cynicism with nostalgia: cynicism about the city's willingness to enforce regulations, and nostalgia for a previous era when urban life was imagined to be more decorous, less congested, and more 'civil' than it is today.

The latter claim, I hope to have shown, is at the very least an oversimplification. While both present-day and historical cases of encroachment are regularly described as examples of corruption and the narrow-minded self interest of private citizens, the colonial history of how 'public' space became a familiar category in South Asia provides a different interpretation of what 'encroachment' may entail. The sorts of translations that made 'public' space an essential component of South Asian cities - along with the many physical places and practices in cities where that concept simply has no relevance - suggest that alternative ways of conceptualizing benevolent forms of urban living have a long history in the Indian city. The tentative resolutions those translations establish with municipal law and the 'public interests' the latter upholds, are almost always more complex than they appear.

Notes

¹ Seyla Benhabib, 'Models of Public Space: Hannah Arendt, the Liberal Tradition, and Jurgen Habermas,' in *Habermas and the Public Sphere* (Cambridge, MA: The MIT Press, 1992) ed. Craig Calhoun, pp. 22-78; 74.

² In the medieval record of English common law, *De Legibus Et Consuetudinibus Angliae* (The Laws and Customs of England), written ca. 1220 and credited to Henry of Bracton, a clear distinction is made between 'public,' 'common,' 'universal,' 'individual,' and 'sacred' property, and rights are ascribed for both corporeal (immovable) and incorporeal 'things.' See S.E. Thorne's translation of Bracton's Latin text at <http://bracton.law.cornell.edu/bracton/common/index.html>.

³ Peter Arnade, Martha C. Howell, and Walter Simons, 'Fertile Spaces: The Productivity of Urban Space in Northern Europe', *Journal of Interdisciplinary History*, 32:4 (Spring 2002): pp. 515-548; 547.

⁴ Works that foreground differences between European and Indian concepts and uses of public and private space include several articles collected in Sandria Freitag, ed. *The Public and its Meanings in Colonial South Asia*, special issue of *South Asia* 14.1 (1991). In particular, see the works in this volume by Jim Masselos, 'Appropriating Urban Space: Social Constructs of Bombay in the Time of the Raj,' pp. 33-63; Faisal Devji, 'Gender and the Politics of Space: The Movement for Women's Reform in Muslim India, 1857-1900', pp. 141-153; and Sandria Freitag, 'Introduction', 1-13; and Freitag, 'Enactments of Ram's Story and the Changing Nature of "The Public" in British India', pp. 65-90. See, in addition, Nita Kumar, *The Artisans of Banaras: Popular Culture and Identity, 1880-1986* (Princeton: Princeton University Press, 1986), especially chapter four; Dipesh Chakrabarty, 'Of Garbage, Modernity, and The Citizen's Gaze', in *Habitations of Modernity: Essays in the Wake of Subaltern Studies* (Chicago: University of Chicago Press, 2002), pp. 65-90; Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference* (Princeton: Princeton University Press, 2000), pp. 180-213; Sudipta Kaviraj, 'Filth and the Public Sphere: Concepts and Practices about Space in Calcutta', *Public Culture* 10.1 (1997): pp. 83-114; Gyan Prakash, 'The Urban Turn', in *SARAI Reader 02: Cities of Everyday Life* (Delhi: Center for the Study of Developing Societies, 2002), pp. 2-7; and Swati Chattopadhyay, *Representing Calcutta: Modernity, Nationalism, and the Colonial Uncanny* (London: Routledge, 2005), pp. 225-273.

⁵ See Jyoti Hosagrahar, *Indigenous Modernities: Negotiating Architecture and Urbanism* (London: Routledge, 2005); Swati Chattopadhyay, *Representing Calcutta*; William J. Glover, *Making Lahore Modern: Constructing and Imagining a Colonial City* (Minneapolis: University of Minnesota Press, 2008), esp. ch. 2.

⁶ The Punjab Municipal Act of 1867 provided for the appointment of both official and non-official members from the European and Indian communities to the Municipal Committee, with the District Commissioner as the Committee

president. A revised Act in 1870 provided for the election of some committee members and the appointment others, but it was not until 1882, following Lord Ripon's Resolution on Self-government, that municipal elections were undertaken regularly in Punjab's cities. In 1884, the Municipal Act was amended to provide for the election of the president as well. In 1891, a further revision set fixed proportions for electing Muslim, Hindu, and Christian members to the committee. See British Library, Oriental and India Office Collections, V/24/2839 'Report on the Working of Municipalities in the Punjab During the Year 1893-94.'

⁷ Government of Punjab, Home Department Proceedings (General), Proceeding no. 15/March 1874, p. 141. Page numbers in parentheses in this section of the paper all derive from this file.

⁸ Government of Punjab, Home Department Proceedings (Municipal), Proceeding no. 18/August 1885, 'Letter from Lieutenant Colonel G. Gordon Young, Commissioner and Superintendent, Jullundur Division, to the Secretary to Government, Punjab', n.p.

⁹ Government of Punjab, Home Department Proceedings (Municipal), Proceeding no. 18/August 7, 1885, 'Letter from Lieutenant Colonel G. Gordon Young, Commissioner and Superintendent, Jullundur Division, to the Secretary to Government, Punjab', n.p.

¹⁰ Government of Punjab, Home Department Proceedings (Municipal), Proceeding no. 18/July 4, 1885, 'Memorandum by R. Clarke, Esquire, Deputy Commissioner, Hoshiarpur', n.p.

¹¹ Government of Punjab, Home Department Proceedings (Municipal), Proceeding no. 18/July 13, 1885, 'Memorandum by Diwan Ram Nath, District Judge, Hoshiarpur', n.p.

¹² Government of Punjab, Home Department Proceedings (Municipal), Proceeding no. 18/July 20, 'Memorandum by R. Clarke, Esquire, Deputy Commissioner, Hoshiarpur', n.p.

¹³ Government of Punjab, Home Department Proceedings (Municipal), Proceeding no. 19/September 1, 1885, 'Letter from C.L. Tupper, Esquire, Officiating Secretary to Government, Punjab, to The Government Advocate, Punjab', n.p.

¹⁴ Government of Punjab, Home Department Proceedings (Boards and Committees), Proceeding no. 18/May 1886, 'Letter from Secretary to the Government (Lahore) to the Commissioner of Jullundur Division', n.p.

¹⁵ The archival material on this case is collected in the Lahore Municipal Corporation (LMC) Old Record Room in a paper-bound file of correspondence. The cover of the file is labeled 'Case LH-3/3-1906'. Subsequent references to materials in this file will be identified by their title or type, date, and page number(s) in the file of correspondence.

¹⁶ Lahore Municipal Corporation, LH-3/3-1906, 'Letter of Petition from Ram Rakha Mal, banker, Suabazaar, Lahore,' June 26, 1906, p.1.

¹⁷ Lahore Municipal Corporation, LH-3/3-1906, 'Letter from Ram Rakha Mal,' September 3, 1906, p. 5.

¹⁸ Lahore Municipal Corporation, LH-3/3-1906, 'Letter from the Chairman, Public Works Subcommittee', November 20, 1906, pp. 16-19.

¹⁹ Lahore Municipal Corporation, LH-3/3-1906, File Note, September 15, 1915, p. 59.

²⁰ Lahore Municipal Corporation, LH-3/3-1906, 'Letter from Ram Rakha Mal to Secretary, Lahore Municipal Committee', January 6, 1914, p. 23.

²¹ Lahore Municipal Corporation, LH-3/3-1906, 'Letters of Support from Ram Sarin Dass, Sunder Dass, Seraj Ud Din, Mool Chand, etc.', December 25, 1913, p. 25.

²² Lahore Municipal Corporation, LH-3/3-1906, 'Letters of Support from Ram Sarin Dass, Sunder Dass, Seraj Ud Din, Mool Chand, etc.', December 25, 1913, p. 25.

²³ Lahore Municipal Corporation, LH-3/3-1906, 'Suit Filed by Sukh Dyal, Son of L. Shib Dyal, of Langemandi Bazaar, Lahore', August 28, 1914, p. 33a-c.

²⁴ Lahore Municipal Corporation, LH-3/3-1906, 'Letter from Ram Mal', June 25, 1919, p. 135.

²⁵ In August, 1919, Ram Mal was informed that his papers on the case, including his purchase receipt for the property, were 'lost in the engineering department for a long time but were finally found in the open *almirah* of the city overseer.' See Lahore Municipal Corporation, LH-3/3-1906, File Note, August 15, 1919, p. 143.

²⁶ The final entry in the case is written in response to claims in the 1927 *Paisa Akbar* article, above, that accused Ram Mal's widow of defrauding the city. The author of the note, S. Das, concluded the following: 'I have gone through these papers of the widow of L. Ram Rakhamal [sic] has sent me a copy of the will left by the deceased. A perusal of the will, will show that this property has been left for charitable purposes and a trust has been created to look after it. Other property yielding an income of Rs. 130 p.m. has been attached to it for this purpose of the chart papers to be filed.' See Lahore Municipal Corporation, LH-3/3-1906, April 12, 1930, p. 159.

²⁷ For a recent study on urban displacement of this sort in Delhi see Amita Baviskar, 'Between Violence and Desire: Space, Power, and Identity in the Making of Metropolitan Delhi', *International Social Science Journal*, no. 175 (2003), pp. 89-98.