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WORK, REGULATION AND ANXIETY: TOWARDS A HISTORY OF EARLY FACTORY LAW IN BOMBAY, 1875-1885

Dissertation submitted to Jawaharlal Nehru University in partial fulfillment of the requirements for the award of the degree of

MASTER OF PHILOSOPHY

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CERTIFICATE

This is to certify that this dissertation, entitled WORK, REGULATION AND ANXIETY: TOWARDS A HISTORY OF EARLY FACTORY LAW IN BOMBAY, 1875-1885, submitted by ADITYA SARKAR, in partial fulfilment of the requirements of the award of the degree of MASTER OF PHILOSOPHY of this University, is his original work and may be placed before the examiners for evaluation. This dissertation has not been submitted for the award of any other degree of this University or any other University to the best of our knowledge.

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Introduction

My dissertation deals with the history of early factory law in India, as it came to be formulated and actualized between the late 1870s and the 1880s. This instantly raises two questions: why factories, and why law? Why, in other words, should this history be considered important? In this Introduction, I will try to open up and address different dimensions of this question.

This introductory chapter is divided into three sections. In the first, I outline possible objections to the project of writing a history of factory labour in India. These objections emerge from the nature of recent shifts and departures in the writing of Indian labour history, changes that I consider valuable and necessary. My response is to explain the kind of relationship this dissertation bears to the new terrains of labour historiography in India – its simultaneous solidarity with and distance from them. This creates potential methodological tensions that I believe are productive.

In the second section, I raise the question of law, and its relationship to historical events and changes. I work through certain modulations of academic skepticisms about the rule of law. I also outline possible counter-arguments to these formulations. Rather than stopping at a – favourable or critical – assessment of these skepticisms and their rebuttals, I try to put them to work, by outlining the ways in which a history of law can be written through the interplay of these conflictual positions.

In the concluding section, I bring these two sets of problematizations together, and address the question of how the history of factory law in India can be approached. I outline some of the horizons of enquiry that an attention to factory law can point to, and briefly summarize the dominant themes of my research and dissertation.

Why the Factory?

There was a time when this question would have seemed unnecessary, even ridiculous. In the frames of reference within which studies of labour were once situated, in India and also globally, factory labour stood firmly within a *telos*, or rather within competing teleologies. In the case of Indian labour studies, as Prabhu Mohapatra has observed, two rival optics, despite their considerable divergences, coincided at this point.[1] Within what is generally termed the 'modernization' paradigm, which was born of sociological research in the aftermath of Independence, a logically coherent narrative of industrialization assumed the growing absorption of the labour force within large-scale, factory-based industrialization. The fact that most Indian labour did not fit within the categories of factory-based industry could be explained by relative economic backwardness, which objective processes of industrialization would gradually smoothen out. Indian labour – and Third World labour in general, within this optic, would come to follow the inevitable trajectory towards large-scale factory production that the industrialized West embodied. The 'commitment' of workers to industry would deepen, as a corollary of this.

A particular variant of Marxism stood against this paradigm, but shared its key assumptions. Within this frame of reference, the industrial working class was again placed within a progressively homogenizing world of production, the successive sophistications of which would come to eradicate the initial heterogeneity of working-class formation. The advance of large-scale industry would produce increasingly powerful forms of working-class organization and solidarity, and accentuate proletarian power in the class struggle against the domination of capital. The regulative teleology here was, of course, that of the eventual emancipation of alienated proletarian labour from the shackles of wage-slavery, and the dissolution of class society itself through revolution. This larger process

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[1] See Prabhu Mohapatra, 'Situating the Renewal: Reflections on Labour Studies in India', *Labour and Development,* 5:1; 1999.

required, however, the initial integration of the working class into the structures of modern capitalist industry, and it was assumed that this implied an absorption into large-scale, factory-based work.

But landscapes of labour, in India and across the world, have changed in dramatic and tragic ways. The world of organized labour, centred around large factories, urban industrial conglomerations, and more or less powerful unions, has shrunk, and the nature of work itself has changed in complicated ways. India has experienced many modulations of these historical shifts. The transformation of cities like Bombay and Ahmedabad into industrial wasteland, the dispersion of industrial units and their linkages with world capital via outsourcing, class confrontations that seem each time to be resolved in favour of capital, are all symptoms of these transformations. Consequently, the imaginaries, teleologies and radical utopias once associated with labour seem increasingly threatened. The advance of 'modernizing' capitalism does not seem to require the greater organization of labour; on the contrary, contemporary webs of global and national production deploy dispersed and fragmented workforces, scattered industrial units. Social transformations towards a homogeneous modernity, based on large-scale industrialization, no longer seem implicit in the movement of history. By the same token, sites of resistance to capitalism seem far more dispersed and fragmented than they did about forty years back, and the shapes of the capital-labour confrontation have changed in significant ways.

Ironically, and apparently paradoxically, it is precisely this radically transformed world of labour and of capitalist practice that grounds the remarkable advances in labour-history writing in India since the late 1980s. For the writing of working-class histories, the cracks that have opened up in these previously dominant optics have been significant. The working class, it is now clear, can no longer be placed within a unilinear vision of historical direction, whether culminating in full-blown capitalist modernity or in socialism.[2] The greater visibility, in our time, of what has traditionally been termed

[2] Ibid.

the 'informal' labouring sector, has led to detailed study of diverse and heterogeneous labouring practices and sites in the past. Some of the most important investigations of labour have challenged the very distinction between 'formal' and 'informal' labour, pointing to a non-dualistic labour market where working people could shift more or less fluidly between differently constituted labour regimes, the axes of differentiation between which were not the classic sectoral ones.[3] The frequently made terminological shift from 'working class' towards 'labouring poor' signals a similar insight.[4] It is at one level a belated response to labour conditions that have always characterized Indian production: after all, the vast bulk of labour in India has always been outside the realm of organized large-scale industry. What is relatively new, I think, is the recognition that this disorganization is not something that will necessarily be superseded by structural changes within capitalism – that these changes may, in the era of post-Fordist production and accumulation, require the reproduction of forms of labour once considered anachronistic.

A vast field of previously inadequately explored problems within Indian labour history has been opened up. These include the divergent experiences of the 'labouring poor'; the particular experiences of women within workforces; the details of regimes of indenture and bonded labour; the intersections of working-class identities with caste, gender and community; the complexities of rural labour; the organization and experience of work processes; the importance of the social life of the neighbourhood in working-class experience, and an array of other questions. The domain of labour history, then, has expanded enormously, as new and unconventional ground has been broken. This

[3] Jan Breman's work is pivotal in reorienting the frames of reference with which historians and sociologists of labour think. He demonstrated that a dualistic labour-market model is inadequate for the understanding of Indian labour, given that urban labour inhabits a market that is fragmented, and does not resolve itself neatly into a binary division between a 'formal' sector characterized by permanent employment and legislative protection, and an 'informal' sector characterized by insecure tenures and the absence of law. These models serve as 'ideal types', and the typical Indian urban labourer shifts – and has shifted – between both regimes contingently. Jan Breman, 'A Dualistic Labour System? A Critique of the "Informal Sector" Concept', *Economic and Political Weekly*, vol. 11, issue 48, 1976, pp. 1870-1876.

[4] See, for instance, Sabyasachi Bhattacharya, 'The Labouring Poor and their Notion of Poverty: Late 19th and Early 20th century Bengal', lecture delivered at the V.V. Giri National Labour Institute, July 1998.

widening of empirical and conceptual ground, as labour history comes to encompass a larger and larger body of themes, is the most important and positive shift within the discipline of late.

The terrain of labour-history writing, then, seems to be shifting. Factory work, it has been conclusively established, never was and is not now the pivotal existence-form of Indian labour. We cannot really speak, even in a broadly descriptive sense, of a 'working class.' Rather, as Breman argues, 'it is perhaps more suitable to draw attention to the multiple identity of this very diverse and heterogeneous social amalgam of classes.'[5] It would seem, then, that exclusive attention to factory labour runs the risk of adhering to older frames of reference, and stands at a slightly odd angle to the most exciting new work being done in the field of labour studies in India. The very definition of a 'factory', as this dissertation shall demonstrate, has historically been framed by law, and at most furnishes a tentative entry point into histories of labour, perpetually subject to its own deconstruction. As an independent object of study, it can seem almost redundant.

I am not suggesting that those who have authored the historiographical shifts I have outlined above – Breman least of all – would consider an investigation of factory histories valueless. It seems to me necessary, however, to state certain objections that may confront this project, not because these objections have already been made, but because, perhaps, they need to be made. At one level, labour history-writing in India is now engaged more than ever in the description and interpretation of ground-level working-class practices, cultures and consciousnesses. At another level, as some of the thrusts from the Amsterdam Institute of Social History suggest, there is a move towards a more comparativist global labour history, within which Indian experiences can be fitted – the sophistication of much of the work on indentured labour bears witness to this. My dissertation is in sympathy with, and is greatly indebted to, the new directions in labour history that I have described.

[5] Jan Breman, 'The study of industrial labour in post-colonial India – The informal sector: a concluding review', in Jonathan P. Parry, Jan Breman, and Karin Kapadia, eds., *The Worlds of Indian Industrial Labour*, Delhi, 1999.

At the same time, though, in its choice of an object of study, it maintains a certain distance from the dominant trajectories. This, I believe, is something that needs explanation and justification. What, in other words, are the particular claims to importance that can be made for this history?

A simple answer to this is possible: I have greatly exaggerated rumours of the death of the factory as an object of historical inquiry. There is some substance in this. Perhaps the most compelling works of labour history over the last ten years have been Rajnarayan Chandarvarkar's studies of Bombay industrial labour, and Chitra Joshi's history of the working classes of Kanpur. Factory labourers are central to both accounts. However, measured by the standards of these researches, my project might diminish even further in significance. Both works offer descriptions of working-class formation and labour markets, interrogate the nature of working-class identities and consciousness, examine the structures of neighbourhood ties and work culture, and illuminate the nature of working-class politics. In important ways, their monographs are social histories of cities as much as they are social histories of labour. My dissertation, on the other hand, examines a few years in the life of a particularly ineffectual piece of protective factory legislation, does not claim to answer questions of identity and consciousness, and deliberately, almost perversely, focuses on a period unmarked by significant working-class protest. Its boundaries are, on the one hand, the gates of the factory, and on the other, the archives of administrators. What then does it stand on, and why should it be of interest?

I shall leave some of the answers to these questions to subsequent sections. For the moment, let us return to the larger question regulating possible worries about the nature of this dissertation – why the factory? Is there anything more to this project than the tired enterprise of going over old ground, perhaps buttressed by new evidence? The very nature of this inquiry necessitates the re-establishment of a certain relationship with what might be considered the 'past' of labour history, rather than its future. What might this entail?

My provisional argument is that the shifts that have made earlier presuppositions and teleologies unsustainable also serve to tear open and re-situate older frames of enquiry, and give them new meaning. If the factory is no longer to be situated within a teleological narrative towards either industrial modernity as it was once conceived, nor towards necessary and inevitable socialist emancipation, then its history may well have to be rethought. And in this rethinking, questions once considered unimportant, or explained away within settled and secure narratives, may well be productively re-articulated.

Within the structure of older teleological assumptions, certain aspects of the history of factories could be explained away without much bother. The optic that regulated the writing of labour history produced certain objects of inquiry – the 'commitment' of workers to industrial labour, the nature of labour militancy, the gains made by working-class struggles. Other questions, however, were occluded in the more exhaustive available narratives. More precisely, partly because labour histories and the representations of managers and millowners on the one hand, or trade unionists on the other, tended to coincide at key points, certain issues were not raised. Industrial labour history *before* the dramatic confrontations of the 1920s, for instance, was not considered terribly important or consequential. Several historical themes, by the same token, seemed to have little to offer: the history of factory accidents, for instance, or the practice of factory regulation, or productions of knowledge around factory labour, to take three cases that my dissertation will consider at length. In the new uncertainty that clouds factory histories, as their erstwhile stable anchoring points seem to dissolve and the narratives that once seemed so linear now exhibit labyrinthine convolutions, the field of 'relevant' historical questions has potentially been thrown wide open.

The shifting grounds of Indian labour history, in other words, not only produce new horizons of inquiry and new objects of analysis, but also disturb the secure anchorage of apparently

'conventional' narratives. Histories once resolved within a stable structure of explanatory narratives now seem contingent, and for that reason perhaps more dramatic and meaningful.

But there is another reason why the history of the factory, in its many inflexions, may have a particular significance today, and that has more to do with certain political horizons and structures of feeling than it does with purely historiographical questions. Most of the significant recent work on Indian labour has been authored from perspectives that share a common language of left-wing values and commitments, and this project stands well within those affiliations. To admit this is not to operate within a crude kind of reduction to the political, something researchers and writers on the Left face almost as an occupational hazard. It runs deeper than that: this commonality of horizons – however weak and tenuous – comes with a set of anxieties, preoccupations, hopes and regrets. These cannot, of themselves, determine the answers to the questions historical research raises, but they do provide points of anchorage. The questions one asks are invoked from within certain political and ethical sensibilities, and one's sympathies are always in play.

Chitra Joshi's book on Kanpur begins on this moving note: 'For many young scholars twenty-five years ago, a concern with labour was inspired by socialist dreams and visions of social transformation. Studying labour, in that context, seemed more than an academic project.....this book bears traces of the changed times: not only have the frameworks of labour history altered, the worlds that I set out to explore are crumbling.'[6] It ends on a similar note, observing of the demise of the older Kanpur working class that 'it is, ultimately, the death of a world, a whole way of life...It is a lost world, and this book is only what E.M. Forster might have termed "one of the slighter gestures of dissent" – an attempt, against the grain, not to forget that world.'[7]

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[6] Chitra Joshi, *Lost Worlds: Indian Labour and its Forgotten Histories*, Delhi 2003.
[7] Ibid.

Joshi's words are exceptionally moving, but they also indicate a wider sense of loss that operates within the world of Indian labour history writing. Many of the historians working on these themes shared the hopes Joshi writes of, and share the commitments. Breman's latest monograph, on the rise and decline of the Ahmedabad mills, works from the same experience of loss and mourning.[8] A recent compilation of oral narratives of Bombay workers by Meena Menon and Neera Adarkar is anchored in the same structure of feeling, and has similar intensities of affect.[9] In a sense this signals a genuine tension within the field of labour historiography in India. As a community of researchers into the past of labour, academic historians in India are poised at a triumphal moment, for the depth, sophistication and range that the field has today is unrivalled by anything it had in the past. When speaking of trajectories of research, labour historians can point with pride to the new fields opening up and old barriers dissolving before their eyes. But the conditions of production for this justified sense of triumph are unusually bitter and ironic, for it rests upon the defeat of many struggles that had once been points of identification for these very historians, and is now situated in a dense, unstable landscape where it is not clear where the next sustained source of political hope will come from. This tense, internally riven anchorage accounts, to my mind, for much of the new self-reflexivity that comes with the new labour history.

The regulating structure of feeling here is a sense of historical tragedy, a moment of profound loss. It seems to me, in terms of historical research – and I am aware of the multiple ironies involved in making this statement – a moment that is peculiarly pregnant with possibilities. In particular, it can activate new attention to histories once considered unimportant, for these can now reveal structures, pressures and even accomplishments that historians were once less than sensitive to. Raphael Samuel once wrote, in an introduction to a volume of A.L. Morton's essays, that history 'provided the playground of the Communist unconscious': present-day disappointments and frustrations could be

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[8] Jan Breman, *The Making and Unmaking of an Industrial Working Class (Sliding Down the Labour Hierarchy in Ahmedabad, India)*, Delhi, 2003.

[9] Meena Menon and Neera Adarkar, *One Hundred Years, One Hundred Voices. The Millworkers of Girangaon: An Oral History.*

softened by an attention to moments of possibility in the past. The analogy is of course stretched. By and large, the historians I am writing of are not Communists, though their work is often deeply inflected with Marxist preoccupations. However, there are, in some of the writing, the lineaments of a desire directed at the past, to uncover and explore possibilities that run against the grain of conservative or 'neo-liberal' orthodoxies that run rampant in present-day political cultures.

Over and beyond this, though, there is the imperative to come to terms with what has been lost, to be *faithful* to that loss, to refuse to separate the work of mourning from the work of retrieval. Factories, simultaneously the source of brutal discipline and radically affirmative imaginaries, backbreaking exploitation and the solidarity of shared grievances, embody a history that resonates with that loss. Today's dispersed industrial units, fast replacing the old large plant-based spaces of production as the motor of manufacturing capitalism, lack many of the mitigating features of their predecessors: state-guaranteed protection of certain kinds, welfare regimes invented at the confluence of complicated motives (philanthropy, rationalized exploitation, a fear of industrial unrest), and potential spaces for effective organized protest. As Joshi's work has shown, industrial labour, once reviled for its brutal exploitation of human bodies and capacities, can in the shattering experience of worklessness be transformed into an imagined world of plenitude and opportunity. I encountered this in Bombay once, in the dying mill area of Lower Parel, where a man who was then making a precarious living washing cars began to loudly revile his present fortunes, in contrast to the security he had once enjoyed as a mill employee. At one level, the tragedy of this is that horizons have narrowed to the point where exploitative and unjust regimes acquire the halo of martyrdom. At another level, though, experiences of this sort alert us to the importance of recognizing loss.

I am aware of the problems with this approach. A slippage towards a dangerous kind of nostalgia can undergird such mourning. Brecht once wrote, 'Do not start from the good old things but from the bad new ones', and effective political strategies involving working-class struggles have to be informed

by such choices. But any sensitive work of historical recovery has to be alive to the magnitude of loss. And, to move back to a more strictly academic terrain, registering this loss can produce important new histories.

It is a history of this kind that I have tried to produce, and the preceding passages have at their base been an attempt to reveal the structure of feeling that authorizes my inquiry. The question that needs to be asked, of course, is what precisely does this inquiry create? I have tried to make it bear the burden of tearing new significations from 'old' objects of historical research, of cracking older histories open and transfiguring them. The history of factory law, the history of industrial accidents, the constitution of factory spaces, the discursive webs tangled around incipient industrial tensions: these are, in lesser or greater degree, new objects of consideration that emerge from within the structure of older narratives. These narratives did account for early factory law – the main theme of my research – but in a nutshell, within a tight explanatory structure that foreclosed the possibility of a genuinely complex historical description. To remedy this in a limited way, I have engaged in what is very much a micro-historical study, less than ten years of documentary traces of factory law and its administration in Bombay, read closely for their possible revelations about both discourse and practice.

The Rule of Law

In one sense, my dissertation is no more than a detailed consideration of the rule of law, as it came to operate in a very specific historical context. India's first Factory Act, passed in 1881 by the British colonial administration, introduced legal sanctions and state control into particular kinds of workplaces where the sovereignty of the employer had previously held more or less total sway. The rule of law, then, came to operate within a particular delimited sphere.

How can this rule of law be characterized? What is its relationship to the social worlds it operates in? How precisely is it connected to state power, and what degree of autonomy does it enjoy in societies that are supposedly governed under its aegis? There are certain 'orthodox' liberal positions that are associated with defences of the rule of law. First, that it serves as a self-regulating mechanism of state power, and tries to prevent arbitrary uses of force. Second, that it balances, through more or less impartial adjudication, competing and conflicting interests within society. Third, as a corollary of this, that it operates more or less autonomously and 'neutrally' in societies where it is sovereign (which are to be distinguished from despotic regimes where it is instrumentally used by authoritarian state power). The rule of law is, in other words, the abstract bulwark for substantive freedoms.

These are not positions that have gone uncontested. American legal realism, for instance, as it came to crystallize into doctrine from the 1920s onwards, criticized the arbitrary divisions between law, society and politics implied by conventional liberal jurisprudence, which it identified as 'formalism' (a polemical identity-attribution that has proved to be lasting). Realism anchored itself in empirical investigations of the nitty-gritty of legal decision-making, of the practices of courts and legislatures. Legal realists denied the autonomy of the law from concrete social practices, and thus its reification.[10]

A more powerful and radical critique was launched – again within American legal academia – in the 1970s, by a group of scholars who have sometimes been seen continuing the project of legal realism. Critical Legal Studies (CLS) was, however, a more radical project than its predecessor, since it sought to destabilize the foundations of jurisprudence. This is not the place to examine the movement in all its nuances, though. Despite the wide divergences between CLS practitioners, they have offered many arguments that are mutually consistent and dependent. Central to this is the assertion that law does not and cannot be expected to function 'neutrally', that this is nothing more than a masking fiction that obscures its perpetual imbrication within an ideological field. By the same token, law is

[10] Robert Gordon, 'Critical Legal Histories', *Stanford Law Review*, vol.36. no.1/2, January 1984.

political. In the writings of the more radical CLS theorists, this is not something that can be wished away, and therefore the purpose of jurisprudence must be rethought. Duncan Kennedy argues that CLS occupies a deliberately marginal position within legal thought – indeed, it invests much in the production of its own radical marginality. Its purpose is 'viral', rather than constructive – it serves to deconstruct the fictions upon which legal practice bases itself.[11]

This radical critique is obviously founded on a rejection of the freestanding value of the rule of law. Kennedy has written that the rule of law can only be supported as an 'instrumental' good, not as something whose value can be generalized across contexts. This position has often been identified as an 'instrumentalist' one.[12] One of the prime charges against CLS has been that it seeks to reduce law to an instrumental function of competing interests and powers. The two positions, however, are logically separate. Kennedy's statement makes an assertion about the *nature* of the rule of law, and basically contends that any value attached to it has to be strategic and conscious, rather than transcendent and foundationalist. The charge of 'instrumentalism', as Robert Gordon has argued, is misconceived. It is a charge more properly directed at legal realism, which sought, in some of its inflections, to reduce legal doctrine and practice to obvious embodied interests. The dominant CLS position, on the other hand, derives from a partly Marxist (and Althusserian) conviction that law operates within an often *unconscious* field of ideological interpellation. Indeed, CLS has refocused attention on the textual content and internal logic of law – nothing could be less 'instrumentalist'. The content of law is taken extremely seriously. The language of law, like all language – this is CLS in its post-structuralist mode – contains slippages that deconstruct the foundations law seeks and asserts

[11] Duncan Kennedy, *Critique of Adjudication*, Harvard, 1997.
[12] Ibid.

for itself. Contingency, indeterminacy, contradiction, ambiguity: these are the identifying marks of law, in CLS accounts.[13]

The achievement of CLS, then, is to have made a case for the irreducibly political – though also irreducibly complex – field within which law invariably operates. However, there have been other positions on the rule of law on the Left that appear to run contrary to this. The tradition of radical social histories of law and crime produced one such position, which did not take up issue with CLS itself, but with the critique of the rule of law generally. This was E.P. Thompson's *Whigs and Hunters*, published in 1975, and quite possibly his most powerful sustained piece of historical reasoning and argument.

Thompson's work operated on two levels. On the one hand, it was a scathing expose of the working of the Black Act of 1723, which entrenched property rights in the Waltham forest against customary appropriations and practices, produced new capital offences, and worked very much as an instrument of ruling-class power. As a historical demonstration of the links between state, class and power, it was magnificent. What troubled many left-wing interlocutors, though, was an afterword in which Thompson sought to elucidate his broader position on law.

Thompson's basic position was that the rule of law presented a paradox. On the one hand, it was the means historically used by a range of despotic powers to perpetuate and mask exploitation and brutality, as the history of the Black Act makes clear. On the other hand, and here Thompson entered controversial terrain, the rule of law was also 'an unqualified human good', a necessary condition of the kind of humane socialist society he and others on the Left dreamed of. Historically, he argued, the rule of law had functioned not only as an instrument of despotic power but also, more

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[13] For an excellent illustration of the debates around CLS, see 'An Exchange on Critical Legal Studies between Robert W. Gordon and William Nelson', *Law and History Review*, vol. 6, no. 1, Spring, 1988.

crucially, as a site upon which the disempowered and dispossessed could articulate their claims – in other words, it was a site upon which social struggles were enacted. And in the resolution of these struggles, law did not always serve the interests of those who dominated it. Thompson implicitly poses, in this regard, the Reform Act of 1832 against the Black Act of 1723. The law cannot be contained within the limits of the hierarchy of forces within society; it can also, in the course of its historical sedimentation, contain resources for those oppressed by power. In a socialist reformulation of an apparently classic liberal position, Thompson ends up arguing that the rule of law is an indispensable check upon power.

The statement that the rule of law represents an 'unqualified human good' naturally acted as a red rag to a bull to many scholars on the Left. The critical legal historian Morton Horwitz, for instance, ended a bitter and critical review with a show of petulance: '...I do not see how a Man of the Left can describe the rule of law as "an unqualified human good"!....It *is* a conservative doctrine. Perhaps at 50 years of age Professor Thompson should be allowed to pronounce its virtues.'[14] None of this vitriol, of course, answered the central question Thompson had raised – is it possible, really, to imagine a humane, non-capitalist society without some version of the rule of law? Can we really imagine a political world in which the restraint of power will not pose a problem to be solved? Thompson's greater sensitivity to this question may have derived from the fact that he belonged to a generation that had to give up its Stalinism the hard way, after years of near-religious belief in the Soviet Union. At the back of Thompson's writings on law is an attempt to come to grips with precisely what went wrong with the Soviet experiment. Horwitz, representative of a generation for whom Stalinism had never been a political option, but for that very reason was not an experience that needed to complicate the moral assumptions and presuppositions of the Left, was not addressing the same questions.

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[14] Morton Horwitz, 'The Rule of Law: An Unqualified Human Good?', *The Yale Law Journal*, vol. 86, no. 3, Jan 1977.

It is possible to read too much, however, into the apparent contradictions between Thompson's argument and CLS positions. There are fundamental homologies that are often easily missed. Both sets of arguments seek to examine, in different ways, the content of law, and to take this absolutely seriously. Both react strongly against purely functionalist accounts of law, which reduce it to a simple reflex of embodied interests. Both see law as a field marked by ambiguities and dissonances, constituted by struggles and tensions. The difference is that while in CLS accounts law is marked by a structural blindness to the ideological interpellations that compose it, for Thompson what is important is that law contains, through its very inconsistencies, possibilities that are not reducible to the ideological field it operates in. There is a necessary degree of autonomy to the text of the law, and it is through this opening that questions of justice and right can enter the field again, as substantive norms.

In terms of the way the relationship between law and history is characterized, there is a surprising convergence between Thompson and some variants of CLS. Gordon has argued that CLS rejects the regulating view of history that marks both 'formalism' and legal positivism – the adherence to an 'evolutionary-functionalist' paradigm. This is how it runs: law and society are related functionally, societies have functional requirements that legal forms and institutions respond to. CLS, on Gordon's account, seeks a more complex relation, whereby law actually has the power to engage and transform social reality.[15] Thompson, in the epilogue to *Whigs and Hunters*, articulated a similarly nuanced conception, as part of his long-running critique of the structural formalism of base-superstructure dichotomies. Law, which in traditional Marxist conceptions forms part of the superstructure, actually delineates the boundaries of practices and structures one might consider 'basic': legally marked out boundaries between fields, for instance, can determine agrarian practice.[16]

[15] Gordon, 'Critical Legal Histories'.
[16] Thompson, *Whigs and Hunters.*

I am, as will be clear from the preceding paragraphs, in broad sympathy with both these strands of thought. When examining the first Factory Act, I try to be attentive to the discursive tensions and contradictions within them, and relate them to actual practice as closely as possible. At the same time, my sense of where these tensions lead draws much upon Thompson's implicit argument about the open-ended possibilities within law. This can of course be overstated, and I would hesitate to write about just any law in this manner. But the Factory Act seems to me to have worked at the confluence of pressures that kept pushing it beyond the closures its creators sought for it. I am principally interested in what law *produces*, in terms of both discourse and practice. This is what I will take up in the concluding section of this Introduction.

A possible objection to writing the history of social practices through the prism of a legal enactment is that it focuses one's attention on 'history from above'. The object of analysis is, principally, the practices and discursive entanglements of the state at a particular conjuncture. Potentially, this can produce a top-down, dry and boring history.

This can certainly be the case, but I do not feel that it has to be this way. The archives of central and state governments, with their volumes of departmental resolutions, correspondence, and memoranda, are at one level the driest kind of source available, and operate within an apparently closed circuit of governmental decision-making. But if these sources are read with care and attention, they reveal complex structures of feeling, tensions and anxieties that foreclose a reified picture of 'the state'. The pressures that acted upon decision-making bodies, the webs of knowledge-production and circulation that determined the direction of particular decisions, the ways in which events and practices pushed open the doors of law to reveal further anxieties – these are all insights that I believe can be gleaned from a careful examination of the traces left in state documents. This does not commit one to writing a history 'from above', to identify with the reasons of state. It can, I believe and have tried to show, be the basis for a reinvigorated political and intellectual history.

The Question of Factory Law

In the first section, I indicated that the history of factories might have to be rethought, since factory-based industrial units no longer appear to have been the natural end-point of the telos of capitalist production. If the factory can be reconceptualized, and shown to be the product of conjuncture rather than teleological necessity, the place of law is central in its history. As subsequent chapters will show, the 'factory', or the 'industrial worker' or the 'formal sector' are constructed as legal categories, and the distinctions normally assumed to operate between them and other categories – 'workshop' or 'unregulated labour' or 'informal sector' – are also chiefly produced by law. Naturally, these categories come to be woven with actual life-worlds and lived experiences, but it is important to remember that they originate as legal definitions. Law, then, intersects the life of factories from the outset, in indirect as well as direct ways. And questions that have normally been abstracted from those of law – work-forms, discipline, working time, working-class physical vulnerability, child labour, and so on – can then be recast as questions inseparable from the articulations and practices of the legal domain. This recasting is what is attempted in my dissertation.

I have chosen, for my research, a moment in the history of Indian labour that has generally been considered to be of minor value. The Factory Act of 1881, instituted by the colonial government, has usually been assumed to have been an attempt to placate the cotton industrialists of Lancashire, who wanted to protect their trade from competition from a growing textile manufacturing lobby in Bombay. This has generally been an accepted explanation of the 1881 Act, though it is also sometimes conceded that 'philanthropic initiatives' had something to do with its promulgation. In either case, historians have not usually considered it important to explore and describe the ways in which this Act came to be and to operate.

The other reason for the neglect of this episode among historians is the nature of the law that was passed in 1881. By any standards, it was an inefficient and ineffective piece of legislation. I have discussed its provisions and drawbacks in detail in the subsequent chapters; for the moment it is sufficient to note that it initiated extremely weak protective measures for a small segment of people engaged in factory work – and a miniscule segment of working people in general – and that there were loopholes that made it fairly easy for industrialists to escape its control. So what I'm engaged in doing is writing the history of an extremely minor piece of legislation. On what grounds?

To begin with, I have tried to show that the pressures and contexts behind the decision to establish factory legislation in India were actually more complex than has generally been believed. There is an interesting story to be told here about circulations of initiative in India and England, contrasting motives, and the processes involved in the actual accomplishment of the law. However, this is not the focus of my dissertation, and its claim to significance rests on other grounds.

To return to the question I raised at the end of the last section, what was it, in this particular case, that law *produced?* My argument has been that the processes whereby law came into being, and the ways in which it worked, produced tensions and anxieties that were extremely important. The production of knowledge around Bombay factories, for instance, involved the opening up of questions and issues that the Act could not handle. These were occluded by the shape legal enactment took, but remained, to haunt its stability and its closure.

Even more importantly, the Act set into motion certain practices of *administration.* This brings us to the question of how the law worked in actual practice. It introduced something fundamentally new into the matrix of industrial relations in India – the figure of the factory inspector, who through his examinations of working conditions within the mills intruded upon a space that was considered the sovereign right of the millowner to arrange and administer as he pleased. Relations between state,

capital, and labour were configured both in fact and *in potentia.* Complex exchanges were involved in turning this into a stable system of industrial relations. In the period that I am examining, the stability of the relationship between state, millowner and worker was constantly threatened by the new kinds of knowledge and evidence produced by the investigations of inspectors. Administrative practice, in my account, becomes the basis for a history of anxieties and tensions.

The law was central, too, in the production of *events.* With an Act that laid down certain principles of protection and certain lines of action for its administrators, incidents that had little practical consequence earlier could now, at particular conjunctures, have extremely unsettling implications. An industrial accident, for instance, could at particular times – as I have tried to show in some detail – throw into question the limits of legislation, and destabilize the assumption that it was permissible to freeze it at the present point of closure. The relationship between the Act and the eruption of destabilizing events demonstrates the lack of finitude within the law, its permeability by tensions that threatened to wrench it open. At one level, these anxieties were contained, and no very radical revisions of the Act took place in this period. On the other hand, the issues raised by the very existence of factory legislation, issues that crucially concerned the possibility of its closure, did not simply go away. Once again, that which it sought to exclude haunted the limits of the law. Like refugees, figures and situations excluded by the letter of the law clustered around its borders, threatening its security as they demanded admittance. The text of the Act could reveal a surprising, nervous fluidity, even if it repelled invasions successfully.

Finally, an attention to the history of factory law provides an entry point into wider questions. The law played an important role in constructing various kinds of labouring identities in the eyes of state officials, and the decisions taken or not taken impinged upon these identities as they were lived and practised. The factory child emerged as a special object of protection, and this typically raised questions about the nature of childhood, the age at which it was legitimate to call a person an adult,

what kinds of labour endangered or were appropriate for a 'child'. The emergence of the worker as a person endangered physically by the space she laboured in was also significant, and accidents played a major role in delineating the kinds of vulnerability workers were associated with. As a corollary to this, the space of the factory became a new object of concern, as inspectors and millowners clashed over the arrangement of machines, ventilation, and human bodies within it. Time, too, became a point of tension, as investigations of factory conditions propelled debates about the limits of the legitimacy of the time demanded from working lives. Questions of holidays, mid-day breaks, and daily hours of work took on potentially dramatic significance.

In the chapters that follow, I consider the dimensions of factory law that I have outlined above, some necessarily in far greater depth than others. In the first chapter, I describe the making of the Factory Act of 1881, and situate it within the practices that prevailed within the mills of Bombay in the two decades after the beginnings of the textile industry there in the 1850s. I briefly examine the forces and pressures behind the making of the Act, and move immediately to the central theme of the chapter – the production and negotiation of the knowledge of factory labour. The Bombay Factory Commission of 1875 is considered at length, since the kinds of knowledge it produced authorized subsequent debates about factory legislation. Following this, I briefly describe the legislative history of the 1878 Factory Bill and the eventual enactment of 1881, and the ways in which certain questions around factory labour were raised, highlighted, followed through or elided in the process of legislation.

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In the second chapter, I turn to the administration of the Factory Act. The bulk of this chapter is taken up in the consideration of a small but fascinating instance of the kinds of tensions implicit in the working of the Act, the case of a doctor whose attempts to turn the law to his financial advantage at the cost of millowners provoked a minor storm in administrative and millowning circles. I use this incident to demonstrate how fragile and open-ended the Factory Act actually was, and to explore the

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texture of the anxieties that the 'simple' practice of administering the law could produce. I try to account for these anxieties, and to locate their persistence in the practice of factory inspection that was instituted by the Act. I also consider the temporary appointment of a Factory Inspector from England to examine the efficacy of legislation, and argue for the pivotal importance of his visit in the history of early factory legislation.

In the third and concluding chapter, I concentrate on one of the many questions propelled centre-stage by the existence of a Factory Act – that of the physical danger posed to working bodies by the space of the factory. The relationship between worker and machine is of particular importance here, and I devote an entire section to it. I also return to the Factory Commission of 1875 to consider the ways in which the endangerment of factory workers entered the discourse of protective legislation. The body of the chapter is focused on three events that illuminated both the dramatic significance of questions of bodily safety, and the many and complex ways in which this related to factory law. First, I look at a case where the arrangement of machinery inside a factory became a point of controversy. Second, I consider one of the most important cases in the early history of factory law – that of the death of a boy in a bone-crushing mill, an event that came close to provoking an immediate revision of the law. Third, I investigate the history of tensions between the state and an isolated millowner in the district of Kheda, a history where accidents played a major role. I use this case to draw attention to the possible differences between the operation of the Act in Bombay city and in other areas of the Presidency.

Through these episodes, I follow a firmly micro-historical approach, using 'small' events and processes to illuminate larger questions. My commitment to this approach derives largely from the nature of the kinds of documents I have had access to, which make it not only possible but also imperative to look for subtle inflexions of tone and argument, and to attend to all the possible nuances within certain situations. Constructing meaning from official documentary evidence, when it

concerns a 'minor' historical episode, is not an easy job, and the responsibilities that come with this set of sources do not allow for large historical generalizations. They do, however, allow for a sensitive reading of state documents, and an attention to the complexities and tensions that can constellate within an apparently small and undramatic sequence of historical events. It is these possibilities that my dissertation has tried to explore as fully as possible.

NEGOTIATING KNOWLEDGE

The Beginnings of Factory Legislation In India, 1875-1881

Little, it has often seemed, needs to be said about the history of early Indian factory legislation. Between 1881 and 1911, three Factory Acts were passed. It is known they were drafted in large part as a result of Manchester commercial interests, which were thus served in their desire to dominate the Indian market for cotton textiles. This dovetailed with independent pressures from philanthropic lobbies in both India and England, shocked by the scale of exploitation in the Bombay cotton mills. These two, it seems, were sufficient causes for the passing of the Acts of 1881, 1891, and 1911. Most of the historiography that touches on labour legislation in India, therefore, passes over the specific histories of these Acts for a fairly bald summation of causes and effects.[1] It is one of these specific histories – that of the making of India's first Factories Act, in 1881, that I will try to restore to the historical record.

This opening chapter has been broadly organized into four divisions. In the first, I have examined some of the conceptual implications of factory legislation in general, using certain historiographical interventions in the narrative of labour regulation in India as an entry point. The problem around which my generalizations situate themselves is this: if factory legislation could accomplish very little for the labourer in *real* terms, is there anything of major significance in its history? I am convinced that there is. There were discursive thrusts of early protective regulation which could not be

[1] The spurt of sophisticated labour history-writing over the last two decades or so has largely passed over the Factory Acts. Prior to this, there had been limited histories of factory legislation written - the work of JC Kydd in 1920, the work of RK Das and Ahmad Mukhtiar, the work of SD Mehta - that had briefly (in Kydd's case with greater detail) outlined the history of the first Acts. However, these were summaries, useful but not really concerned with raising wider historical questions.

contained, without significant discomfort, within existing regimes of employer sovereignty – a point this dissertation shall return to time and again. In the first part of this chapter, I try to abstract from the historical process, and attempt to understand, conceptually, what it might have meant to enforce a regime of legal protection for labour in a historical situation in which it was so conspicuously absent. The crossing discursive frames of formal and informal labour, free and unfree labour, are the nodes my argument passes through.

In the second, I try to provisionally complicate the prehistory of protective labour regulation in India, in a slightly telegraphic mode. In my opinion, there are several broad narratives that are of importance if one is to understand this history – factory legislation in England, the pressures of Manchester, the initatives of philanthropists and political lobbies within England, similar initiatives within India and the fierce opposition to these that emanated from quarters sympathetic to millowners.

In the third and fourth sections, my arguments follow a single resonating line. This links the production of 'concrete' knowledge of working class conditions through a particular official investigation – the Bombay Factory Commission of 1875 – and the meanings generated by this process, with attempts to contain and order these meanings through the enactment of law. It also takes account of the crystallization and circulation of ideological positions on the question of factory regulation in India, within a limited public sphere. In each of these processes, we find the question of factory labour being negotiated in complicated and ambivalent ways. A new sense that factory labour might need protection (*if* a severe enough need for this can be proved) acquires ascendancy, and inflects the arguments of even those who oppose protective regulation. This, however, jostles with an uneasy desire to limit the 'needs' of factory labour to certain kinds of protection, chiefly ranged around questions of time and safety. The chapter concludes with some provisional judgments and

conclusions about the nature of the first Factory Act, some of which will be elaborated in subsequent chapters.

Conceptualizing factory legislation

Framed in terms of a cause-effect macro-history, it is quite true that the Factory Acts were not a particularly earth-shaking episode. Their provisions were minimal, they were hard to enforce, and it seems they had little power to affect actual work-floor practices and experiences of labour, at least initially. There is an interesting story that can be woven around the nature of responses to factory legislation, by social reformers, philanthropists, the early nationalist press, and millowners and millhands. This has already been written about by Bipan Chandra, in his 1966 monograph.[2] However, the value of this history would still seem to be limited, of arcane interest undoubtedly, but marginal to the larger history of labour in India. There were indignant responses to factory legislation, and these are revealing, but in the age of the Ilbert Bill, the Afghan campaign, and the furore over the abolition of cotton duties, this was hardly at the centre of attention.

Nevertheless, India's first Factory Act, passed in May 1881, marked an important historical break. It changed, or at least significantly complicated, the trajectory of the relations between Indian labour and law, despite being limited in its formulation and ineffectual in practice. Prior to this, labour law in India had emerged, as Michael Anderson has argued, as a series of contingent responses to particular situations in which employers in diverse locations – public works, plantations, mines, agriculture, and so on – needed to mobilize labour.[3] It seems that this produced a series of sites of labour marked by relations of legally enforced coercion, where state and capital were lined up together against labour, disciplining it and extracting service and profit with minimum hindrance.

[2] Bipan Chandra, *The Rise and Growth of Economic Nationalism in India* (People's Publishing House, 1966).

[3] Michael Anderson: 'Work Construed: Ideological Origins of Labour Law in India to 1918', in Peter Robb, ed., *Dalit Movements and the Meanings of Labour in India,* Oxford 1993.

Labour resistance was criminalized by a number of injunctions – plantation legislation and breach-of-contract legislation being the most dramatic of these. Prabhu Mohapatra has argued convincingly that the virtual sovereignty of capital over labour in these locations of production was not something that emerged naturally out of a pre-given matrix of social relations. It was sustained legislation by the colonial state that produced these sites as preserves of the power of private capital. The punitive remedies employers often had recourse to, remedies that founded their authority, emerged from systematic state intervention.[4] Anderson and Mohapatra's arguments provide suggestive entry points and provocations, and need to be unpacked further to explore some of the conceptual dimensions of the history my dissertation will explore.

Anderson argues that the ideation of labour, as a separate category of thought with its own integrity, was slow to emerge in India. Instead, thought about labour in the circles of power was enmeshed with, on the one hand, the situational contexts in which labour was mobilized (family, caste, land, public service, and so on), and, on the other hand, the regimes under which it was performed (slavery, contract, coercion, and so on). These were 'points of tension' that implicated the articulation of labour as an issue, but such articulation was contingent and situational. Anderson traces the development of the categorical ideation of labour, through the debates on slavery and contract (a conceptual polarity that implicated the free/unfree labour binary), the criminalization of labour resistance through legal enactment, and the eventual conceptualization of labour as an abstract, 'economistic' factor of production, mediated by the passage of the Factory Acts. He subscribes, surprisingly unproblematically, to the primacy of Manchester in the making of the Acts, and extends this to argue that they represented an attempt 'to put the industrial genie back in the bottle of agrarian stereotype'[5] by throttling the emergence of independent factory-based industry in India.

[4] Prabhu P. Mohapatra, 'Regulating Informality: Legal Constructions of Labour Relations in Colonial India and the Caribbean' in *Labour in the Public Arena: Representation and Marginality: An Anthology of Essays Presented in the 3rd International Conference of the Association of Indian Labour Historians*, NOIDA 2002.
[5] ibid.

Mohapatra provides a different order of insights into factory legislation.[6] He problematizes and explores something that is usually not even considered a problem. To put it briefly, we operate with notions of the 'formal sector' (as the branch of labour and work relations within the purview of public regulation) and the 'informal sector' (as the branch outside such jurisdiction) that are unhistoricized. Thus, the informal sector is easily equated with 'freedom from government intervention', and we are left with a polarity, public/private equaling formal/informal, equaling regulated/unregulated. Mohapatra, revising this, examines the implication of the state in the production of informality in labour relations. This is an argument that actually has implications that are universal, but Mohapatra's focus is colonial India. Here, he rereads evidence we're all familiar with – to do with master-servant laws, the Breach of Contract Act, plantation legislation, etc – and reworks it conceptually, demonstrating that it was sustained legislation and intervention by the State that produced these sites as preserves of the power of private capital. The virtual sovereignty of capital over labour in these sites was not something naturally, but the culmination of a historical process: the formulation of an active, interventionist strategy on the part of the State, aimed at securing the rights and – in some cases – punitive powers of employers, against workers.

There are two arguments in these essays that have important ramifications for my work. First, Anderson's accent upon the evolution of the free/unfree labour dichotomy as a constitutive element in the formulation of the idea of labour. Second, Mohapatra's stress on the pivotal role of the State in the construction of the categories in which labour was understood. What is significant, also, is the omission of detailed considerations of early factory legislation in either paper. Mohapatra himself points out that his focus and interest lie elsewhere; in Anderson we have a discussion that is not hugely illuminating. My question is this: if we pose the problem of free labour and the idea of the

[6] Mohapatra, 'Regulating Informality'

production of labour relations in the context of the 'formal' sector, what arguments and insights might we be able to work with?

If 'informality' is in a sense produced by active State intervention, the same is more obviously true of formality. But the historical and theoretical question of *how* this happens remains important, if one is to avoid falling into the familiar trap of using 'formal' and 'informal' as dehistoricized categories.[7] This is something that stands out when looking at the archival evidence for the ways in which factory regulation was planned out. What was a factory? How many people did it have to employ, to be within the boundaries of legislation? Who was a child?[8] How old did he have to be for his labour to qualify as 'adult' labour, and thereby beyond the protection of the State? None of these were settled and decided questions, for much of the period that my paper examines. Departments circularized one another, reports were written and published, memos and letters passed from central to local governments and back, and drifted around inside departments, factory inspectors furnished evidence and arguments, and all this went into the making of the definitions of the key legal categories of factory labour.

The dominant thrust of all previous legislation had been repressive and punitive; these were aspects entirely absent from the formulation of factory law. For the first time, then, a class of labourers emerged, in the official eye, almost exclusively as a subject of *protection.* The logic of state intervention was, if not entirely transformed (for punitive legislation continued in other sectors), certainly complicated in significant ways. Simultaneously, this effected a categorical split in the world of labour, never in any case a unified world. The factory labourer came to bear a relationship with the

[7] A qualification is needed here: my own paper is guilty of deploying the categories of 'formal' and 'informal' in exactly this dehistoricized manner. It is to a large extent unavoidable: often, the terms we use to describe the past are of greater utility than terms that would have been understood in that past. But as a cautionary proviso, it is necessary to register here the unavailability of the categories of 'formal' and 'informal' in the late nineteenth century. These descriptions are used here because their *genealogy* is important, and this period is part of their geneaology.
[8] The first Factory Act dealt almost exclusively with child labour.

State – and thus a political identity – that was theoretically utterly different from that of the indentured coolie. This did not have to do with the absence of regulation in one case and its presence in another: rather, it had to do with the way in which deliberate strategies of intervention and regulation marked two labouring identities radically off from one another. And it is at this point that we have, for the first time, a more or less articulated split between what we would now call the 'formal' and the 'informal'.[9]

The State entered the world of factory labour as legitimate adjudicator, constituting a bench of appeal for workers. However minimal early legislation was, both in its conception and in its effects, there was an implicit recognition here of putative entitlements that working people could activate. Each object of state scrutiny and intervention extended the sovereignty of official power into the terrain of industry; simultaneously, though, it chalked out a new immunity or entitlement for the factory labourer. What did it mean to operatives to be able to lay claim to Sunday as a day of rest each week, irrespective of the state of machinery or the needs of the employer? We can only imagine this. Holidays, a regular opening and closing time, protection from dangerous machinery, a limit on hours – each of these presented itself not only as a demand of the State upon millowners, but as a potential claim that workers could now legitimately make, in the name of the law. Some of these measures – the limitation of hours, for instance, or the restrictions upon child labour – need not have been universally popular: indeed, given the need for earnings, the prevalence of piece-work, and the need to sustain whole families, they were probably often very unpopular. Be that as it may, they could at the same time function as limitations on the arbitrary powers of employers, and serve a strategic purpose for millhands and their 'representatives'.

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[9] Perhaps it should be clarified that this portion of the paper deals almost exclusively in terms of ideational construction. The effort is not to examine the actual consequences of state intervention, but the *potential* meanings embedded in it. In the most conventional sense, this is a history of ideas.

There was a dual impact, then, of the regulation of factory labour and the creation of 'formality'. First, the limits of capital's sovereignty were being spelled out. The employer could work his millhands between such and such a time, use labourers above such an age, would have to turn machines off at such a time, would have to provide a holiday on such a day, and would have to ensure such kinds of protection for machines. The manouevres and strategies of employers would have to operate within this narrowed and delimited – though still very wide – space. Second, and simultaneously, certain zones of worker autonomy were being marked out: freedom from work on such and such a day, immunity from certain kinds of dangers from machines, and so on. These spaces were, in theory, marked out by legislation as closures, judgments that would for once and for all define the relative powers of capital, labour, and the State. (Each legal enactment is compelled to visualize itself in these terms). Operationally, though, what early regulation marked out were spaces of struggle and contestation, terrains upon which claims could be enforced, extended and renegotiated. The field was open, on the part of working people, for a strategic use of the law to actualize their entitlements against the interests of capital.

There is something else happening here. Within the new world of 'formal' labour, a division between the 'public' and the 'private' is being produced and configured in interesting ways. The realm of the public, defined as the sphere where the state has the authority to intervene, is precisely the realm that is marked out as 'private' for the workers – their day of rest, their bodily safety, their hours away from work, their mealtimes. The realm of the 'private', within this world of formal labour, is the realm where the employer has the right and freedom to intrude upon the time and labour-power of the people he employs, to alienate it from them, free of the interventions of the state. This reproduces itself further, it can be argued, in the distinction between formal and informal sector – which comes to be operative only now. In the informal sector, the distinguishing characteristic is the 'private' rights of the employer over his workers, guaranteed by official, 'public' enactments by the State. In the formal sector, contrary to this, 'private' and 'public' take on their connotations in the

context of the State's relation with *labour*: it is the protection of the entitlements of labourers, and of their *private* time that is marked out by a public enactment of law. This is significantly different from the standard model of formal/informal and public/private sectors, the one we're most familiar with, which grounds itself in a categorical distinction between a world of public industrial regulation and a world where a more or less pure *laissez-faire* operates.

In relation to the free/unfree labour dichotomy, too, there are interesting things happening with the creation of legal entitlements for the industrial working class. One kind of 'free' labour, in the classic sense of political economy, characterized the pure and unregulated *laissez-faire* relations between capital and labour before 1881. In effective terms, this boils down to the freedom of a contractual relationship to work out its modalities autonomously of legislative interference. Given the inequality of the contracting powers, the arrangements reached – without legal coercion – naturally favour the employer. The State's encroachment upon this contractual freedom, as it was effected in India, though, changed the terms of 'free' labour. The worker, now, was invested with a new and qualitatively different kind of *legal* freedom, with entitlements *as* a worker, and not merely as a subject of the State.

In addition to the definitions of freedom and autonomy mentioned above (control over one's own time, etc), the new legislation represented a move towards a new, more collective form of working-class entitlement and freedom. If we are to imagine legislation as marking a major *potential* and *semantic* bridge in labour relations (whatever its practical inefficacy), worker freedom before factory regulation must be conceptualized as something individual, contingent and situationally embedded. Given the difficulties of maintaining stringent controls over the production process, work proceeded irregularly, breaks were taken at opportune moments, stoppages were contingent on the situation of production at that moment. Workers made private, informal arrangements about their breaks and moments of slackness; employers made private arrangements about stoppages, lunch was an ad hoc

affair, as often as not. Legislation eventually came to mark out specific times for the midday stoppage for lunch, and to define opening and closing hours strictly. This potentially disrupted the ad hocism and contingency of previous arrangements, by marking out times of rest and other freedoms that workers were now *collectively* entitled to.

These are broad theoretical brushstrokes, made in an exploratory vein. I plan in this chapter to try and tie these tentative insights to the specific history of the Act of 1881. The Act itself, in my account, is posited as a terminus to a history of debates and negotiations around the question of factory regulation. These were enacted on various sites: official correspondence, the public sphere of newspapers, millowners' correspondence and arguments, and the responses of working people. The last of these is nebulous, and hard to recover in empirical terms, except as stray traces and suggestions. My archive for this preliminary exploration is chiefly the piles of pages of correspondence and grey argument preserved in the files of the central government, though it touches episodically on other sources. This is, naturally, an archive with its own conditions of production, repression and survival, and its own problems of interpretation. However, it does furnish some interesting entry points into a wider history of early factory legislation.

It appears that the Act of 1881 was extremely difficult to put into practice, and employers and jobbers could work around its specific clauses easily enough. It was an enactment that omitted as much as it regulated, leaving important potential subjects of regulation unaddressed. My focus, therefore, will not primarily be on the working of the Act in its early years, but on the arguments and negotiations woven around the issue of factory legislation between the mid-1870s and the early 1880s. In this way, it is possible to locate the Act itself – a minor piece of legislative history in its *immediate* implications – within a historical narrative of the production of knowledge and the investigation of factory conditions in this period. This brings the State into the history of factory labour in a particular way, not at the point at which it operationally asserted its authority and

demarcated the boundaries between legislation and *laissez-faire*, but at a slightly earlier point, when the scope of its actions were a matter of debate. The arguments entering and leaving the official sphere of state policy, and the public spheres it had to engage with, led to the production and the occlusion of 'relevant' regulative choices, and the crystallization of positions on legislation that were overdetermined by many pressures – business interests, public opinion, the history of *English* factory law, and so on. It was through these combined pressures that objects of knowledge were marked out within the sphere of factory conditions. These defined the spaces within which the State could legitimately operate, and also, in large part, the spaces for subsequent campaigns around labour reform, and early labour organization.

Contexts and pressures: the prehistory of regulation

As I have already observed, the Factories Act of 1881 marked a shift in, or rather a pluralization of, the intentions of state. Plantations, public works, and a number of other labouring sites remained, despite mild ameliorative measures, marked by labour regimes that framed their regulative authorities in terms of their capacity to punish workers' misdemeanours. The 1881 enactment, on the other hand, was purely protective in nature, the first piece of labour legislation in India formulated with the explicit, and sole, intention of protecting workers from excessive exploitation. The colonial state that passed this Act was not in general terms sympathetic to labour, as its own practices in jails and public works mobilizations amply demonstrate. Its instinctive sympathies seem to have generally lain with capital, which is neither historically unusual nor surprising. This has lent strength to the traditional commonsense about factory legislation in India – that it was a product of the machinations of the Lancashire textile industry, which wanted to stifle competition from Indian manufactures of cotton, and thereby pressed for protective legislation to raise the costs of production in Indian mills, even as it campaigned for tariff walls against Indian mill-made textiles.

This argument is not without sound basis. It is an accurate description of the motives of the Lancashire lobby, and it is not possible to deny the impact of this lobby upon British policy, both metropolitan and colonial. However, it is also an account with limited explanatory force. Rereading the history of the first Factory Act reveals a much more complex story of pressures, counter-pressures, political and ideological entanglements. From the 1870s, it appears, the question of factory legislation came to be hotly debated in India, both within and outside government circles.

In England, this was a period when the cause of labour legislation was making its first very major advances in a while, with pathbreaking legislative enactments in 1874 and 1878, outlawing the criminalization of worker breach and extending the protective regime for industrial workers. Robert Steinfeld has argued that the annulment of master-servant legislation in England in 1875 was a landmark event, for it finally established juridically 'free' labour as a concrete identity as well as an ideational category. Prior to this, nominally 'free' workers in England had laboured under regimes where the lines between coercion and freedom were difficult to draw, and had been subject to a range of nonpecuniary compulsions. In the 1870s, these finally came to be abolished, not as a result of the onward march of capital but as a result of legal reform, spurred by organized working-class action.[10] It was in this period that the issue of Indian factories began to be taken up too.

Most early factories in India were engaged in textile production. Cotton mills, mostly concentrated in Bombay Presidency, were the biggest employer, followed by jute mills, which were centred in Bengal. In 1880, which is the first year for which there are reliable statistics, there were 58 cotton spinning and weaving mills employing 39,437 persons daily, and there were 22 jute mills, with 27,494 workers engaged on a daily basis.[11] The knowledge of working conditions that was formulated in the 1870s revolved chiefly around the Bombay cotton mills – although, as this chapter shall show, these were

[10] Robert J. Steinfeld, *Coercion, Contract and Free Labour in the Nineteenth Century,* Cambridge 2001.
[11] S.D Punekar and R. Varickayil, eds., 'Introduction', *Labour Movement in India: Documents 1850-1890* (New Delhi, 1989).

generalized legislatively into regulative principles for factory labour in general. As such, I shall only try to indicate, at the outset, some of the relevant details about factories in Bombay.

In the early 1880s, the time of which I am writing, Bombay was in the middle of a significant expansion of cotton mill production, pioneered in the main by an increasingly powerful body of Parsi entrepreneurs.[12] In the two decades after 1871, after a setback in the 1860s, employment in the mills increased eightfold, touching 65,000 in 1891. Bombay was the largest industrial centre in India, rivaled at this stage only by Calcutta, which specialized in the production of jute. It is clear from the records that factory regulation was initially devised chiefly as a means to counter the problem of working conditions in Bombay, for there was no corresponding effort to gather detailed information about labour conditions elsewhere in the country. These efforts took place, as I shall described, only after the debates around factory law had acquired a certain momentum of their own. This may well have been because Lancashire pressures were directed squarely against Bombay, since cotton textiles produced in the city were potentially a major international competitor. Shortly after the Act was passed, several inventories were made of factories and their statistics of employment across Bombay Presidency, which essentially meant Bombay city, since the bulk of the mills were concentrated there. Mills were sprouting across the city, changing the urban landscape, drawing in workers from a flexible pool of mainly migrant labour, and giving rise to much comment from contemporary observers. Alternately seen as hazardous and brutal, a nuisance producing smoke and pollution, and an emblem to modernity and progress, mills came to occupy, over the decades, an increasingly important place in the way the city was imagined, and the way it imagined itself.

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[12] For important accounts of the Bombay textile industry, see S.D. Mehta, *The Cotton Mills of Bombay: 1854 to 1954* (Bombay, 1954), Morris David Morris, *The Emergence of an Industrial Labour Force in India* (Berkeley and Los Angeles, 1965), Rajnarayan Chandavarkar, *The origins of industrial capitalism in India: Business strategies and the working class in Bombay, 1900-1940* (Cambridge, 1994), and S.B. Upadhyay, *Existence, Identity and Mobilization: The Cotton Millworkers of Bombay, 1890-1918* (New Delhi, 2004)

The pioneers of cotton mill production in Bombay were mostly Parsi entrepreneurs, operating initially as subordinates to European commercial firms. Cowasji N. Davar, in the 1830s, was the first to try and set up a cotton mill in Bombay.[13] This was not a successful attempt. It was in 1856 that the first mill started production, drawing on a floating and untrained labour force. C.N Davar, progenitor of the first experiment, started another mill – this time successfully – in 1859.[14] Manockjee Nusserwanjee Petit's Oriental Spinning and Weaving Company started work in 1858, and his son, Dinshaw Manockjee Petit (who shall figure prominently in this narrative at a later point) founded the Manockjee Petit Mills in 1860.[15]

Bombay was a city of immigrants, who composed the bulk of the city's growing labour force. Ratnagiri was initially the chief source of migration to the city, supplying 126,190 people by 1881.[16] Most of these were young adult male migrants, and this was echoed in the early composition of the millworkers. The cotton industry's demands fluctuated with its fortunes, and its procurement of labour – organized, as with most forms of labour in India, by intermediaries or jobbers – was flexible, drawing on pools of casual, unskilled labour. Speaking broadly, millowners concerned themselves little with the existential conditions of labour outside the factories, or – to put it more economistically – with the problem of the reproduction of the labour force. In contrast to evolving conditions in England at the time, neither capital nor the State invested much in the housing and health of the workforce. Deploying a largely unskilled and flexible market of labour seems to have been important, though one imagines this would have varied from the spinning to the weaving departments, the latter requiring more training and skill.

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[13] S.D Mehta, *The Cotton Mills Of Bombay: 1854 to 1954* (Bombay, 1954).
[14] S.B Upadhyay, *Existence, Identity and Mobilization: The Cotton Millworkers of Bombay, 1890-1919* (New Delhi, 2004).
[15] ibid.
[16] ibid.

What were the conditions of work in the early cotton mills? Most of the (limited) sources from the early years of mill production indicate a variable regime, marked by more or less classic *laissez-faire* situations. Working hours varied from mill to mill, but there was no external regulation – except sunlight – that prevented millowners from working their labourers as long as they chose. In principle, mills worked between sunrise and sunset, but the absence of fixed hours of sunrise produced great uncertainty – workers often had to be up very early in the morning to make it to the mill on time, failing which a fourth of their day's wages could be cut. The number of holidays varied from mill to mill, but in general it seems to have been very small.[17]

Within mills, the absence of adequate ventilation often created a boiling atmosphere of work, well over 95 degrees Farenheit. Most mills had a sufficient number of windows, but these were rarely opened, for fear of draughts breaking the cotton thread. After the Act of 1881, when Meade-King, a Factory Inspector from England, examined the implementation of the Act, he observed that fluff and dust blew about freely in the blowing and carding rooms, and that some of the mills operated at temperatures higher than those required by any other manufacturing process.[18] He also observed the almost total absence of sanitary provisions in many of the mills he visited.[19] Further, since many of the workers lacked previous training, worked inordinately long hours, and suffered conditions of great heat and dust, the possibility of accidents was extremely high. We have no definitive records of the number of accidents experienced by mills. Most of the interviewees at the 1875 Factory Commission denied the incidence of serious accidents, but most of these were millowners, and it may be significant that workers were never systematically asked about their vulnerability to unprotected machinery.

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[17] ibid.

[18] Report on the Working of the Indian Factories Act, NAI, Home Judicial, October 1882, progs. 23-24.

[19] ibid.

The 1870s were an interesting and relevant conjuncture within the metropolis, when factories began to occupy – or rather, re-occupy – a significant space in administrative and philanthropic discourse inside England.[20] Legislation to do with factory labour, of course, had begun very much earlier. The first Act had been promulgated in 1802, conceived more as a continuation of existing poor law regulations than as a direct intervention in industrial relations. However, there was a second Factory Act in 1819, and a slew of legislation between the 1820s and the 1840s, spurred by a growing body of concern about the moral and material devastations wrought by industrial capitalism. 'Tory reformers' like Sadler, Oastler and Lord Ashley (later the Earl of Shaftesbury, and the most sustained advocate of a sort of labour-welfarism, focused chiefly around factories, for over half a century) were the chief proponents of regulation. The Factory Acts in England developed piecemeal, expanding gradually to engross more and more industries and manufacturing concerns. The legal definitions of enterprises, work and workers thus also shifted continually. It was as late as 1878 – a pivotal year for factory legislation in both England and India – that a Consolidating Act (the Factory and Workshop Act) regularized legislation, and explicitly included *all* industry within its scope.[21]

Following the Factory Act of 1847, there was a prolonged lull. In the 1850s and 1860s, perhaps correspondent with the intellectual hegemony of Free Trade, and also the decline of Chartism, state intervention in the sphere of factory labour in England took, relatively speaking, a back seat.[22] In 1874, under the Conservatives, there was effected a piece of legislation with a lengthy and comprehensive title, 'An Act to Make Better Provision For Improving the Health of Women, Young Persons, and Children employed in Manufactures, and the Education of such Children, and otherwise to improve the Factory Acts.' This was also a period of intensified fears about the moral

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[20] J.C Kydd, *A History of Factory Legislation in India,* Calcutta 1920.
[21] When officials in India set about collecting material relevant for factory legislation in the late 1870s, the Factory and Workshop Act was a key point of reference, though it naturally covered a very much wider range than colonial labour legislation was ever to do. Several files of the time contain requests for copies of this and similar Acts. Eg. NAI, Home (Judicial), January 1880, Progs. 9-94 and K.W.
[22] Kydd, op.cit.

and political consequences of urban squalor, poverty, and overcrowding. Mid-Victorian reformers, philanthropists and administrators agonized over the growing visibility of 'outcast London', and a series of legislative and administrative decisions were made towards the resolution of this problem. Typically, these initiatives combined motives of genuine compassion, a logic of administration that sought to transform the urban landscape and invisibilize – if not eradicate – misery, and confusedly articulated fears of class conflict. The Cross Act of 1875 was a flashpoint in the history of such initiatives, concentrating its proposals around the problem of housing, which had by now emerged as the locus of administrative attention to the urban poor.[23]

A climate of social concern was intensifying in 1870s England, and this is a convenient and relevant entry into the story of *Indian* factory legislation, which began to be proposed and discussed in these years in England. The questions of factory labour and urban poverty, so intertwined in English political discourse and literature, were separated from each other more or less categorically in the deliberations around the early Indian Factory Acts. The concern that *was* translated from metropolis to colony in these years was the attention to the conditions of women and children working in the mills. As it turned out, the 1881 Factory Act *only* protected child labour[24], the 1891 Act belatedly extended this to women, and legal benefits to adult male operatives were much slower in coming. The early enquiries of the government, in the Factory Commissions of 1875, 1885 and 1890, yielded data that pointed to forms of suffering that were collectively shared by male, female, and minor workers. However, the legal enactments of the time tended to elide this knowledge as an object of legislative concern. This contrasted with the growing scope of factory legislation in England, which engrossed operatives more or less universally.

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[23] For an excellent discussion of this, see Gareth Stedman Jones, *Outcast London*, Oxford 1971.
[24] An interesting recent discussion of factory legislation and child labour is contained in Emma Alexander, 'Labour Regulation or Protection for the Factories Child: Bombay 1881-1920', paper presented at Fourth International Labour History Conference, 18-20 March 2004, Noida (India).

Although harping on the interests of Manchester tells us, by itself, only a limited story about factory labour regulation, its constitutive importance cannot be denied. Around the same time as welfarism and philanthropy were gaining weight in England, in early 1874, a deputation from the Manchester Chamber of Commerce petitioned Lord Salisbury, the Secretary of State for India, on the question of competition to Lancashire textile production from the Bombay mills.[25] This certainly was a major contributory factor to the sudden intensity of imperial interest in matters of factory regulation in India. The main thrust of Manchester's campaign against competition from Bombay was the effort to secure the abolition of duties on cotton textile imports into India, a concession secured finally in 1882. There is little doubt that the pressure for factory legislation was an important secondary weapon (though it seems to me that the narrative here has often been too seamless. Evidence indicates that Manchester pressure *before* 1881 was much less significant in determining policy formulation than it was between 1881 and 1891).

The imperial government's attention was first directed to the specific problem of Indian factory labour by Alexander Redgrave, a British Inspector of Factories, in early 1874. Redgrave, citing rumours – well justified, as it turned out – that cotton mills in Bombay often worked fourteen hours a day, expressed the hope that, through 'wise and moderate regulation…..the native workers of India may be spared the ordeal that our cotton operators went through in former days and that they may be permitted to enjoy the blessings of moderate labour, of ample time for rest and meals and of protection to children of tender years.'[26] This was followed by the Manchester petition mentioned above. Following this, between April 1874 and February 1875, there were discussions in both the House of Commons and the House of Lords on the necessity for factory legislation, and a fairly definite consensus was produced on the matter.[27] On 23 March 1875, the first Factory Commission

[25] M.R Anderson, op.cit.
[26] Kydd, op.cit. Also NAI, Home (Judicial) A files, January 1880, Progs. 9-94 and K.W.
[27] ibid.

in Indian history, headed by F.F Arbuthnot, Collector of Bombay, was appointed to look into the conditions of factory labour in the town.

Of crucial importance to the cause of Indian factory legislation was the involvement of the apparently inexhaustible Shaftesbury. Almost fifty years after his political debut on the Indian board of control in 1828, and more than four decades after he cut his teeth as a politician on the question of English factory legislation – the beginnings of a long and intense involvement with the 'factory question'[28] – Shaftesbury, aged but energetic, threw himself behind the agitation for industrial regulation in India. In one of his speeches in Parliament, Shaftesbury complained about the 'unfair advantage' enjoyed by Indian manufacturers over Lancashire, because of the absence of regulation, and argued for an equalization of conditions of production. Although Salisbury, attempting to forestall accusations of dictation by Manchester, immediately and adroitly turned the point around and applauded Shaftesbury for his 'unimpeachable philanthropic motive', the latter's apparent championing of Lancashire caught the eye of anti-legislation lobbies, Indian newspapers, and subsequent generations of historians from Kydd to S.D Mehta to Anderson, all of whom zero in on this statement as an indication of the ultimate determination of even philanthropy by imperatives of Lancashire profits.

There may, however, have been other and perhaps more pressing influences upon Shaftesbury. When he first spoke on the issue of Indian factory legislation, Shaftesbury spoke of his indebtedness to Mary Carpenter, at that time Secretary of the National Indian Association in Bristol. Mary Carpenter had been to India a few years back, in 1866, and had struck up a friendship with the Bengali reformers Keshab Chandra Sen and Sasipada Banerjee, inspiring the latter to begin activities amounting to a kind of early labour-welfarism, with a strong spiritual tinge. She had impressed upon Banerjee the need for attention to the conditions of labour at the Baranagar jute mill, which she

[28] For an illuminating discussion of this, see Peter Mandler, 'Cain and Abel: Two Aristocrats and the Early Victorian Factory Acts', *The Historical Journal*, vol. 27, 1, March 1984.

visited, and this spilled over into a general concern for the conditions of factory labour.[29] The bulk of her project was educational – she started a series of reformatory schools for both boys and girls in India, and, as her interest in factory conditions grew, also recommended the institution of industrial schools. These concerns fused at her speech in December 1874 at a session of the National Indian Association in Bristol, where she spoke of 'the importance of immediate legislation for the establishment in India of Reformatory and Industrial Schools[30] for juvenile offenders; and of a half-time Factory Act to secure the education and protection of children employed in factories; and of industrial training in connection with the education of the masses.'[31] In order to push her agenda through, she approached both Shaftesbury and Salisbury, and both of them acknowledged their debt to her.

More or less at the same time as Lancashire's advocacy, and Mary Carpenter and Shaftesbury's championing of factory legislation, there emerged another source of pressure, this time from within India. The Parsee scholar and social reformer Sorabjee Shapurji Bengalee, originally an agent for machinery makers and thus equipped with a good working knowledge of the mill industry, began to campaign for regulation of factory conditions, and against the exploitation of children and women in the mills. The *Rast Goftar*, one of the most important journals in the Bombay Presidency, lent its support to the cause.[32] Bengalee's involvement with the question of factory regulation was to grow over the years, and provide a counter-thrust to powerful voices of opposition to legislation within the putative nationalist intelligentsia.

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[29] See Dipesh Chakrabarty, 'Sasipada Banerjee: A Study in the Nature of the First Contact of the Bengali *Bhadralok* with the Working Classes of Bengal', *Indian Historical Review,* 2:2, January 1976.
[30] The conjunction of these two demands - for reformatory and industrial schools and for factory legislation - is interesting. At the same time as the demand for factory legislation was picking up, there was also an Act passed to establish reformatory schools in India (in 1876). It might be productive to explore the connections between these two legislative enactments and their histories, and more specifically to examine Mary Carpenter's connections with both. For more details on the reformatories and industrial schools angle, see NAI, Home (Judicial), B files, April 1876, Progs. 81-92, and Home (Legislative), March 1876, Progs. 23-46.
[31] Kydd, op.cit.
[32] S.D Mehta: *The Cotton Mills of India: 1854 to 1954,* Bombay 1954.

At the same time, there is some faint evidence of pressures for factory legislation within official circles in India. In August 1874, J.A Ballard, Master of Her Majesty's Mint in Bombay, wrote a letter to the Chief Secretary of the Bombay Government, requesting consideration of a Factory Act. He drew attention to the Act that had recently been passed in England for the protection of child labour, and argued that Indian operators actually needed such protection more than their counterparts in England. Drawing upon the evidence provided by Mr J.H Bower, of the Royal Mill (who was subsequently to be interviewed at length by the Factory Commission), Ballard offered an estimate of numbers: according to him, about 2800 women and 2500 children below 12 were employed in Bombay mills; machinery was kept running through the week for about two weeks each month; and the temperature of the mills was always very high. The number of spinning mills was expected to increase, and Ballard drew attention to the consequences of reproducing these working conditions in a growing industry.[33]

In the last week of 1874, the vernacular press also got into action. The *Akhbare Sowdagar* registered, as a matter of some novelty, the passing of a Factory Act in England (clearly an unfamiliar concept for the editors of the newspaper at this time). The issue raised, predictably enough, was that of long hours: according to the *Sowdagar*, millhands worked from 6 a.m. till late at night, and needed both a limit on this and the fixing of a weekly holiday.[34]

At the time the Commission of 1875 was appointed, then, a complicated set of interest groups and sources of pressure had accumulated around the issue of regulation. Lancashire, British Parliament, British philanthropy, Indian social reform and some strands of public opinion, voices from within the administration – this was an unexpected and unusual alliance of demands. The colonial administration, at this stage, was still uncertain and hesitant about intervention. The practical

[33] NAI, Home (Judicial) A files, January 1880, no.23.
[34] *Report on Native Papers (RNP)*, Bombay, 24 November 1874.

problems with a scheme of regulation seemed immense, and the government was mired in ignorance about the conditions of factories, which had been left to run entirely on *laissez-faire* principles so far. The Bombay Factory Labour Commission of 1875 was set up to resolve this very problem – to produce knowledge of working-class conditions relevant to a plan of intervention. But what kind of knowledge was to be produced?

The Commission of 1875: setting the terms

The Commission had nine members. Besides the President, who was Collector of Bombay, a Vakil from the Bombay High Court (the Hon'ble Rao Saheb Vishwanath N. Mandlik), and a doctor (Thomas Blaney), the rest were all associated with Bombay mills, as directors, chairmen, managing agents, and owners. One of the members, Dinshaw Manockjee Petit, was one of the most successful and powerful millowners in the city. Besides Manockjee Petit, the Commission included Sir Mungaldass Nathoobhoy, who had been chairman of the Bombay United Spinning and Weaving Company; H. Maxwell, who worked with Messrs. W. Nicol and Co., and was also Director of the Prince of Wales Spinning and Weaving Company; Morarjee Goculdass, Director of the Morarjee Goculdass Spinning and Weaving Company (another major Bombay businessman); J.K Bythell, of Messrs. Gaddum and Company and director of the New Berar Company; and G.A Kittredge, of Messrs. Stearns, Hobart, and Co. Six of the nine members, then, were intimately associated with the cotton industry in Bombay, with often overlapping responsibilities as directors, owners, and managing agents.[35]

The Commission held ten meetings, between 14 April and 16 June 1875. At these meetings, representatives of millowners, managers, doctors and engineers, and (much less prominently and

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[35] [35] Report of the Commissioners Appointed by the Governor of Bombay in Council, to inquire into the Condition of the Operatives in the Bombay Factories, and the Necessity or otherwise For the Passing of a Factory Act (henceforth *F.C 1875*). Appended to Home (Judicial), January 1880, progs. 9-94 and K.W.

much more hurriedly) workers, foremen and jobbers, were interviewed. The Report, which was submitted in early July, contained full transcripts of these interviews, along with the Commission's recommendations.[36] It is no surprise that the Commission did not recommend factory legislation, and nor is it surprising that the only two dissenting voices were those of the President and Dr Blaney.[37] The composition of the Commission ensured that a positive verdict for factory legislation was not going to be considered. In the initial discussions of the Commission, the weight of negative opinion made itself felt right away. The President, F.F Arbuthnot, chalked out the main lines of inquiry to be followed: the danger from machinery, the age of children employed, hours of work, sanitation, ventilation and education, and the establishment of a supervisory regime. Dinshaw Manockjee Petit and Mungaldass Nathoobhoy made qualifications to this almost instantly, claiming that accidents among work-people were invariably due to their own negligence.[38] Morarjee Goculdass said that workers tended to overstay their meal time by two hours.[39] Arguments against legislation, then, were being rehearsed within the Commission before inquiry of any sort started. This was to be reflected more or less faithfully in the eventual Report, with minor changes of emphasis. It is interesting that a Commission that – looking from the point of view of Manchester and the British Parliament – had the *duty* of recommending legislation, was composed in such a manner that such a recommendation was ruled out.

Parenthetically, this indicates that the actual pressures operating in the processes of investigation were much more complex than an account of top-down English philanthropic and business diktat can convey. There were important mediations between the decision to investigate factory labour and the appointment of a Commission to actually do so. The Government of Bombay, which appointed the Commission, was responding to a range of pressures, and felt the Bombay business lobby's weight fairly pronouncedly.

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[36] ibid.
[37] Report, *F.C 1875.*
[38] *F.C 1875,* Ist Meeting, 14 April 1875.
[39] ibid.

But the fragmentary traces of public opinion we have indicate an even more complex picture. Newspapers of the time, reacting sharply against what they considered the unwarranted imposition of Manchester interests upon the Indian cotton textile industry, often carried this hostility over into their attitudes to the Commission, despite its composition. The *Jame-Jamshed* of 27 March, for instance, placed the appointment of the Commission in a continuum of diablolical moves, beginning with the attempts to abolish cotton export duties.[40] The *Yajdan Parast* made a similar claim, but in a slightly different key, on the following day: it suggested that the millowners should get together and supply all the information and arguments they had to the Commission, in order to forestall legislation.[41] This suspicion of the Commission was, however, not constant, nor was it the only attitude among vernacular newspapers. Through the period of the Commission's enquiry, Bombay's major newspapers kept a strict watch on its enquiries, applauding, for the most part, arguments and evidence against legislation, and pouncing upon evidence in favour of it as biased and inaccurate. Simultaneously, anxious refutations of the grimmer pieces of evidence were offered. Contrasts were drawn between work in the mills and the much worse-paid and more oppressive work performed outside mills. The millworkers were constantly presented as happy, well-fed, and contented with their conditions of work.[42] These were arguments and evidence, it seems, that were arranged in a particular manner, to attract the attention of the Commissioners and make the case against legislation better than the witnesses could do. Simultaneously, the evidence of the Commission was scrutinized with care by local newspapers.[43]

It seems, then, that in course of time the Commission became a site for different kinds of arguments around the question of legislation to circulate and enact themselves. From a bearer of Manchester interests, the Commission seems to have made, gradually, a transition in the eyes of some local

[40] *RNP Bombay*, 27 March 1875.
[41] ibid., 28 March 1875.
[42] See, for instance, *Satya Mitra*, 9 May 1875, *RNP Bombay.*
[43] See *Bombay Samachar*, 18 May 1875, *Bombay RNP*, and *Jame-Jamshed*, 17 May 1875, *Bombay RNP.*

papers to a legitimate jury for factory conditions. What this indicates is that newspapers that were intrinsically hostile to the question of factory legislation were forced to reformulate strategy. Equally, papers like the *Rast Goftar* and initially the *Akhbare Sowdagar*, which supported legislation, saw the Commission as an opportunity to push their arguments about the necessity of an enactment. The establishment of the Commission, and its investigations, set in motion a particular way, a tradition of thinking about labour, furnishing arguments and data that could be used by both proponents and opponents of legislation.

What was this way of thinking? How is one to read the discursive moment represented by the Factory Commission, in the light of this range of positions constellated around its establishment and operation? To situate it in its broader context, it can be argued that the Commission's inquiries and report mark something new in the history of Indian labour regulation, and certainly something radically new in the brief history, till then, of factory relations. Till this time, most regulation of labour in other spheres – plantations, public works, the military – had been punitive and repressive, their thrust being the enforcement of the assumed entitlements of the employer rather than the putative entitlements of the employees.[44] Factories, on the other hand, had been outside the purview of state intervention, and regulated themselves according to principles of more or less pure *laissez-faire*, i.e. a nominally free negotiation between inherently unequally balanced parties. If the controls of the employer over his employees were considerably less extensive and total than those of, say, planters, it is also true that workers did not enjoy even the minimal collective or individual security that legislation had been forced to grant indentured labourers.[45] Whatever the motives of individual

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[44] See, among others, Mohapatra, op.cit.
[45] A qualification needs to be made here. First, I am not particularly interested in the question of *why* there was this difference between the two worlds of regulation/non-regulation. The reasons do not seem difficult to list: relatively greater shortages of labour in the case of plantations, and the need to repress and, much more minimally, protect the indentured labour force; the ownership structures of the two enterprises (plantations being European-owned, and the most significant part of the mill industry - Bombay cotton textiles - being in the hands of indigenous entrepreneurs), which ruled out active legislation on behalf of factory employers, and shifted the weight of regulation against them. What is more interesting, to my mind, is what this signified,

Commissioners, the very establishment, by the Bombay Government, of a body to investigate labour conditions, ruptured this *laissez-faire* consensus, and also introduced, for the first time, a new *logic* of possible state intervention, one that drew its legitimacy from a language of social concern and welfare rather than from a language of punishment. There is a double move here: the State's arrogation of the right to intervene to itself (a right achieved haltingly and falteringly) is simultaneously the factory worker's *entitlement:* holidays, limited hours of work, sanitation, ventilation, medical examination, and – not least – the attention supposedly paid to working people's voices by a commission that wants to elicit their opinion.

This move obviously clashed not only with proto-nationalist accents on the necessity of sovereignty of an infant indigenous industry, but also with assumptions of the sovereignty of capitalist industry itself, the inviolability of the necessarily unequal relations of production within a factory, within an industry. The terms of discourse about factory labour, then, had to shift. It is revealing, for instance, to take an apparently obvious point, that factory regulation was *not* taken to imply the surveillance and (possibly) punitive regulation of *both* employers and employees. Fixed hours were discussed, but there was no serious argument offered to the effect that millowners, as much as millworkers, could activate the State on behalf of their 'rights' as employers. Feeble attempts were made by some voices within the Commission to lay the responsibility for ill-health, accidents, and so on, at the workers' door, and to argue for the regulation of their 'idleness'. However, there was no serious attempt to translate this into the framework of legislative enactment.

As a result, arguments about the necessity for legislation became, in all spheres of debate, arguments about the actual welfare of the worker, and how well existing mills served this. Newspapers, too, were forced to change their tune. The callous statement by *Amrita Bazar Patrika* that 'a larger death

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and how it *operated*. What kind of legal and discursive universe came to be framed around the problem of factory labour in the early days of regulation, and what implications does this have, both for factory labour and for the wider history of labour regulation in India?

rate among our operatives is far more preferable to the collapse of this rising industry' is well known.[46] It is true that the press was littered with comments of this kind. However, even a cursory glance at the *RNP* of this period reveals a subtle shift in the terms on which the debate was carried out. Initially, the argument against the Act was couched more or less exclusively in terms of Lancashire machinations. As the 1875 Commission turned up more and more evidence, the emphasis shifted: new evidence needed to be found to refute allegations of worker misery, to demonstrate that the factory labourer was actually very well off. The terrain of discussion, then, became the welfare of the worker, rather than – exclusively – the interests of the industry. And this is evident, too, in the arguments offered by the Commissioners who were obviously hostile to legislation – Manockjee Petit and his allies. Implicitly, the point was conceded, through complicated negotiations, that the existence – if proved – of terrible working conditions constituted a legitimate ground for state intervention. This seems almost tautological at one level: the Commission was appointed to investigate labour conditions, and the ground of its investigation was the conditions of labourers. But this in itself tells us something about the logic of investigation of factory conditions, and the new thrust it introduced in the conceptualization of regulation and the role of the state. This was a new paradigm of thinking about labour, and even those who were hostile to it found themselves forced to negotiate on these terms.

The constellation of circumstances and meanings is interesting: a Commission was set up, consisting overwhelmingly of people hostile to the project they had been appointed for – the protection of labour. The very nature of its job, however, circumscribed its inquiries within a logic of protective intention, and this – despite the actual positions of the Commissioners – informed their enquiry and charted its direction. Concomitant with this, the other actors in this play – newspapers producing and crystallizing powerful public opinion, businessmen's lobbies, and (as we shall see) the persons interviewed by the Commission – reshaped their positions on factory legislation along the lines of the

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[46] *Amrita Bazar Patrika,* 25 September 1875, *RNP Bengal.*

operation of this protective logic, conceding implicitly the necessity of protection *if relevant evidence was produced.* This was not, however, a one-way process. Given that the Bombay Millowners' Association had been set up in 1875, and constituted a powerful body of potential opposition to intervention, the Commission – which certainly didn't want to antagonize millowners, quite the contrary – had to tread carefully. The thrust towards reform had to negotiate with the effectivity and strength of the interests that stood to be antagonized – some of which, of course, were interwoven deeply with the interests of individual Commissioners. The interviews and report of the Commission, followed by the memos, circulars and consultations in government circles that followed, tell a story of cautious advances, hesitations, retreats and vacillations as zones of legitimate intervention were chalked out, established and given up.

Typically, the questions asked of the interviewees raise more points and generate more data than the Commissioners seem comfortable with. For instance, a surgeon, Dr Joseph Anderson, stated in his interview that there was a boy in his hospital who was suffering from an accident that had happened with a carding machine. An obviously worried Commissioner (sadly, there is no mention of the names of the questioners for each question, but we can make a fair guess that in this case it is a millowner) burst out: '...but how could it be, since we don't employ boys at carding machines?' Perhaps sensing the truth-limits of this exchange and the rules of the game, Dr Anderson backtracked, but in a sense the damage was done – the evidence was recorded, and remains in the records: boys were being employed where they technically shouldn't have been.[47] The Commission, constituted as it was, was unlikely to make much use of this evidence, but subsequent and more hostile bodies could well deploy it.

The instance cited above fell more or less squarely within the Commission's scope of enquiry – it concerned the legitimate and illegitimate deployment of children as factory labour. The objects of

[47] Evidence of Dr Joseph Anderson, *F.C 1875.*

investigation set out before the Commission by the Bombay Government were dangers from machinery, hours of work, the age of children employed, ventilation, sanitation, holidays, education for factory children, and opinions on the necessity or otherwise for legislation.[48] But in the course of interrogation, much more information came tumbling out, and many other real or potential grievances were set out, often – ironically – in the testimonies of millowners and managers, when questioned about their practices. Certain basic knowledge about the living conditions of workers was produced by investigation. For instance, a child testified that he didn't earn enough from his wages to sustain himself, which is why he looked sickly and underfed. Interviews also revealed that workers often had to get up at 3 or so in the morning to cook their meals, get ready and go to work. Questions of the imbalance of rights and penalties were also raised (in one case, by a conscientious millowner): why should a worker have to give notice before quitting, and a manager be free to dismiss workers at will?[49]

The arguments and claims contained within the interviews and conclusions of the Commission constantly emphasized that ventilation and sanitation were extremely good. As against this, though, evidence was constantly turned up that mills regularly operated at around 95 degrees Farenheit; that windows and doors were often shut; and that there was dangerous fluff in the blowing and grinding rooms.[50] The inadequacy of ventilation had, in many cases, more to do with the logic of the work process than with the absence of means of ventilation – the latter seem to have been reasonably generous, but windows and doors were often shut for fear that draughts would break the cotton thread and slow down work.[51] For piece-workers, this would have slowed the rate of earnings too, and we can probably imagine a conjoining of the interests of workers and employers in keeping ventilation limited, which, of course, tells us a substantial amount about the logic of capital. Be that

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[48] *F.C 1875.*

[49] Ibid. This point, incidentally, is one that was so potentially troubling that the Bombay Millowners' Association in 1892 quietly conceded the legitimacy of allowing workers' a month's leave for dismissal, despite the absence of any legislation on the subject.

[50] See, for example, evidence of Dr Weir, *F.C 1875, 4th Meeting.*

[51] For an interesting discussion of this, see Upadhay, *Existence, Identity and Mobilization.*

as it may, the evidence produced by the interviews, despite proclamations to the contrary, made ventilation a legitimate object of investigation, thus increasing the potential anxieties of millowners. Similarly, constant claims that sanitation was excellent were belied by evidence from several mills that there were no privies in the immediate vicinity. The evidence, then, stood in excess of the space allocated to it; it spilled over from the assumptions and framework of questions within which it was sought to be contained. This was bound to breed anxieties, as well as open up spaces for deployment in the future. Despite its efforts, the Commission constantly produced evidence that could be used against its conclusions.

One of the Commission's tasks, given this outpouring of information, was to edit, as it were, the relevant knowledge, to select certain spheres of concern and to delete certain others. There were startling occlusions in this process. So far from operating as a directive from Manchester, aimed at the most restrictive possible legislation, the specific points made by the Commission in its report, in relation to its purported objects of enquiry, were very minimal. The conditions of working women, which had been a major focus of investigation -- the Commission had gone out of its way to interview six women workers separately – was left out of its summary of information. This summary, drastically minimal though it was, was nevertheless not very comforting: it pointed to insufficient protection for machinery (despite millowners' consistent assurances to the contrary), inconsistent and unsatisfactory ventilation, very few holidays, very little schooling for children, and the employment of children as young as 5 or 6 years of age.

The majority of the Commission's members advised against the implementation of a Factory Act. A minute drafted by one of the Commissioners, Sir Mungaldass Nathoobhoy, C.S.I (unsurprisingly, a former chairman of the Bombay United Spinning and Weaving Company), was seconded by three other millowners among the members, and spelt out the reasons for opposition. The reasons given were to be the staple of anti-legislation campaigns in the future, and some of them had already been

deployed by the opponents of factory legislation in England. A Factory Act would check the 'healthy growth' of an important and new industry; workmen themselves would not appreciate it since their wages would fall; the Act would *not* be addressing other far more injurious and exploitative trades; and 'zealous officials' entrusted with the implementation of the Act might 'abuse their powers'.[52] Other voices of opposition, the BMOA (Bombay Millowners' Association) were subsequently to make other arguments, notably the danger of a breakdown in the 'harmonious' relationship between capital and labour.

So far, I have referred to the Commission's work in basically monologic terms, as though it spoke with a single voice. Reading through the interviews, though, it is possible to disentangle several voices from within the Commission. Typically, an interview with a mill-owner, a doctor or an engineer, after ascertaining his credentials, would immediately ask about the safety and dangers of the machinery used in mills of his experience, and break off fairly abruptly to focus on conditions of labour. Centrally, the concern of the questions would be with female and child labour, especially the latter, and these would be broken up into questions about hours of work, the age of children employed, whether pregnant and nursing mothers worked in the mills, the provision or lack of it of educational facilities for children, the wages paid and the mode of payment, and the necessity or otherwise of a legislative enactment. It is in the course of these highly sensitive questions that we can hear more than one voice within the ranks of the questioners, although it is almost always impossible to affix names to these voices.

There is, loud and clamorous, the angry voice of the millowner, bursting from within the seams of impartial and detached interrogation. Dr Thomas Stevenson Weir, Health Officer to the Bombay Municipality, faced particular wrath. Upon saying that legislation was necessary, and needed to be extended to *all* factories using steam power, he was confronted by the following question: 'Which

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[52] Minute drafted by Sir Mungaldass Nathoobhoy, *F.C 1875*.

would you prefer, that children should work half a day, receive half wages, and get half starved, or that they should work the whole day and earn enough for their living?'[53] (recall that 'the whole day' meant literally that: morning to sundown, recall also that *this* was the focal point of imperial and philanthropic anti-millowner sentiment; in this context the millowners' anxiety seems palpable). Upon reiteration of his opinion that a six-hour working day is enough for boys between 10 and 14 years of age, Dr Weir was asked again: 'Do you think that even at the risk of reducing their income, they should not be permitted to work more than half-time?'[54] After his answer in the affirmative came back, he was subjected to an interrogation about working conditions in *his* department (how long do the men in his department work? How many holidays? Do women and children work?) that seem to bespeak a distinctly aggressive mood.[55] Time and again, this matrix of millowner interests and worries breaks through the smooth surface of questioning and cross-questioning.

However, there are other voices, often as articulate and powerful, that target the millowner and the proponent of the status quo in factory regulation. In one case, a millowner, Rao Bahadur Becherdass Ambaidass, was asked whether he recommended the construction of a covered shed where labourers could take their meals. Upon replying that there were trees aplenty, and it was pleasanter to eat in their shade, he was asked whether he would take *his* meals beneath a tree. When he replied in the affirmative, he was pressed further, and asked whether he would do this in the rainy season too. Here he admitted he wouldn't, and we hear a triumphant interviewer proclaiming, 'Then trees are not *always* useful?'[56] The tone and thrust of the questions are evident, and very potentially destabilizing – can you imagine yourself sharing working conditions with the operatives who make your mill run? Such concerns also run through the stretches of questioning that concentrate specifically on health and sanitation. And then there is a fascinating exchange concerning the employment of pregnant women. Dr Anderson spoke of the danger posed to their health by continued employment in the late

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[53] ibid., Fourth Meeting, 5 May 1875, evidence of Dr Thomas Stevenson Weir.
[54] ibid.
[55] ibid.
[56] *F.C 1875*, Eighth Meeting, 2 June 1875, evidence of Rao Bahadur Becherdass Ambaidass.

months of pregnancy. Upon this, he was asked the usual question: 'Which of the two would you prefer, that pregnant women should work, get paid, and get proper food, or that they should not work and get starved?' Dr Anderson reiterated his point about the danger to their health, and then claims that such a practice is not unknown in English mills either. A questioner interjects, 'I never knew that'. Dr Anderson quietly replies, 'Quite possible, but I know such cases do occur.' Here, rubbing the point home, Dr Blaney has his say. The transcript notes: 'Here Dr Blaney remarked that if the members of the Commission were so inclined, he would amuse them for an hour at least with instances of this kind.'[57] So it seems that the proceedings of the Commission were not as smooth and harmonious as it might appear at first sight.

The Bombay Factory Commission was marked out from earlier inquiries into labour by its relatively detailed examination of a few labourers. Three foremen, five or six boys, six women, and a press labourer were interviewed by the Commission, towards the end of its enquiries.[58] This set in motion an entirely new *mode* of investigation of labour. The 1875 Commission, naturally, interviewed workers only as an aside: their evidence seems to have made little difference to the final recommendations. But the idea that the conditions of workers could not be understood without enabling them to speak finds expression, however faintly, in the Commission's work, underpinned as it is on themes like the worker's happiness or satisfaction. When limited protective legislation for plantations had been considered and implemented, it had been a matter of survival, given the incredibly high death rates in the plantation regime. Here, a different kind of reasoning seemed to be at work. The worker needed, by this reasoning, to be consulted about decisions that affected his life. This was not yet couched as an entitlement. However, by the time the Commission of 1890 came into existence, matters would have turned around dramatically. 96 labourers would be interviewed, the proportion of millowners in the composition of the Commission would have fallen drastically, and there would be representatives of millhands on it, as a matter of right. Even at this early stage, though, we see the 1875 Commission

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[57] ibid., evidence of Dr Joseph Anderson.
[58] ibid., 7th Meeting, 26 May 1875, and 9th Meeting, 9 June 1875.

undermining, by the very nature of its operation, the idea that regulation could be comfortably decided as a finished, mutually enhancing agreement between State and capital. In the structure of the Commission's enquiries, the millowner is on trial; the labourer, as it were, stands on witness. Roles are reversed.

A particular kind of knowledge is produced about the workers from the interviews with them, and it is significantly different from that produced by the interviews with millowners – not because the evidence is so very at variance, but because the range of questions is strikingly different. For one thing, the interview implicitly breaks up the 'worker' into different categories, with different sets of problems and needs. Wage differentials are one kind of entry point into the differences between workers. Bhana Naik, a *muccadum* at Manockjee Petit's mill, was paid Rs. 100 a month,[59] and Syed Tyab Ally, another *muccadam*, was paid Rs 60-80 a month.[60] An ordinary skilled labourer like Rama Antoba, working at the Scott Press, was paid Rs.15 in the slack season and Rs.50 in the busy season (this range, however, may have been due to the peculiar working schedule of cotton presses, with their long slack months and their frenetic and exhausting peak season).[61] The evidence of the millowners suggests a wide wage differential *within* the category of skilled labourers, generally upward of Rs.15, and often significantly upward. But the children and women interviewed all received wages between Rs.4 and Rs.7 a month – when they were paid on monthly wages, that is.[62] This was despite the fact that the women often worked as hard as the men did. Further, this wage scale, below Rs.10-15 a month, seems to have applied more or less across the board to unskilled labour in factories, male, female, or child.

The limits of the Commission's enquiry in addressing these matters were evident. The sympathy that some Commissioners clearly had for the worker was hugely circumscribed by the kinds of questions

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[59] Evidence of Mr Bhana Naik, *F.C 1875*, 7th Meeting, 26 May 1875.
[60] Evidence of Syed Tyab Ally, ibid.
[61] Evidence of Rama Antoba, *F.C 1875*, 9th Meeting, 9 June 1875.
[62] ibid., 7th Meeting.

the Commission allowed itself to ask, and the kinds of recommendations formulated even by Arbuthnot and Dr Blaney, the dissenting voices. The focus of these was on child labour, specifically hours of work, the protection of machinery, and the provision of a weekly holiday. These were not insignificant recommendations – the last was to be a staple demand of the Millhands' Association later. However, the stress on limiting hours of work, spurred partly by an anxiety about the destabilizing consequences of other possible measures and partly by a genuine horror at the length of the working day, was by itself quite self-defeating. The women and children interviewed by the Commission put the matter quite succinctly. Most of them favoured weekly holidays, and the children concurred in holding the hours of work too long. But when asked if they wanted a reduction, and being told that this also involved a reduction in their wages, they replied 'what are we to eat?'[63] This was clearly a worry that did not resonate equally among all sections of the workforce. Those on monthly wages had nothing to lose from a reduction of working hours. But most millhands, and certainly most women and children, were engaged primarily in piece-work. For them, working in conditions of unstable and uncertain employment, a reduction of labour-time meant a reduction of crucial earnings.

The problem at the crux of this, clearly, is the mode of wage-payment. This problem also appears in another context: repeatedly, evidence appears in the Commission's proceedings to demonstrate that workers were paid their wages in the middle of a month, for the labour performed in the last month, i.e. they were paid two weeks late. Given the meagre amounts they were paid, and the absence of sufficient savings, they naturally turned to the services of moneylenders to tide them over in the intervening time.[64] However, addressing the problems clustered around wages – the absence of regular times of payment, the inadequacy of pay for those at the bottom of the wage hierarchy, the persistence of piece-work, and so on – was not something the Commission chose to do. Remarkably, it wasn't till well into the second quarter of the twentieth century that wages were addressed in *any*

[63] ibid.
[64] ibid.

form by factory legislation, which by then had gone a fairly long distance in other respects towards establishing some sort of a system of security and recognition of rights for industrial workers. In this sphere, interestingly, plantation law was much in advance of factory law, formulating minimum wage commitments in the last part of the nineteenth century.

So the question of wages was raised continually by the Commission – but not, on its own terms, as a *problem.* It seems to have been taken for granted that this was one area the Commission – and, by extension, the State – had no right to intervene in. This is demonstrated by the tone of the questions – would you like shorter hours of work? If you would, you must remember you sacrifice your wages. Given this stark option, it is not surprising that most workers agreed to forego a limitation of work-hours, an agreement that was read as 'contentment'. But the interviews do not reveal such a stable picture. The women at Manockjee Petit's mill who were interviewed stated that they found the hours of work too long.[65] The boys interviewed at the same mill complained that their wages were insufficient to maintain themselves and their families. When asked if they wanted a holiday a week, one of them replied: 'If I am to take four holidays, how am I to fill my belly?' Another said he would have liked to have attended school, but not at the cost of the wages he would end up losing for half-day.[66] When the Commissioners visited the Girgaum spinning mill (where, incidentally, the operatives were not allowed drinking water), they interviewed some children, one of whom was clearly so weak that they kept asking him if he was sick, or had been sick recently.[67] There is a particular poignancy to the following exchange:

Q: What is your age?

A: Ten years, though I am short in stature.

Q: Are you sick?

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[65] ibid.
[66] ibid.
[67] ibid.

A: No, but I have been weak since childhood.

Q: Does not your work fatigue you?

A: Not now, I used to get fatigued earlier.[68]

Questions of work-hours – and, by extension, wages – predominated, then, in the interrogations of factory workers. While millowners were invariably asked about the safety of their machinery, workers were not asked whether they experienced it as safe. Nor were they asked in any detail about sanitation and ventilation. There is an implicit move, in the questions of the Factory Commission to labourers, to contain the range of experiences that an interview could disclose within the framework of a more or less exclusive focus on hours of work. There were occasional slippages into more uneasy questions – about whether mothers who were suckling their babies continued to work, for instance, and – as demonstrated above, about the question of health. However, by and large, the worker's experiences were limited to questions of time, weekly holidays (operationally an extension of the same problem), and wages (another extension). In addition to this, it is important to remember that the information supplied by workers had its own conditions of production. Many of the workers interviewed worked at Manockjee Petit's mill.[69] Manockjee Petit was serving on the Commission. We can only imagine the relations of power and threat that may have been involved in the production of more or less non-disturbing evidence from the workers.

1878 to 1881: debating legislation

The history of the production of legislation-oriented knowledge about factory labour had, till the end of the Factory Commission's enquiries, contained one significant ambiguity. It was not clear from the early debates around legislation exactly what the *scope* of the Act – if passed – was to be? Was it to be

[68] ibid.
[69] ibid.

a permissive enactment, which provincial governments and Presidencies could apply as and when they chose? Was it to apply to Bombay alone? Or was it to be a positive enactment for all of British India, promulgated by the Government of India? The subject had come up now and again in the interviews held by the Commission, and the issues at stake had become clearer. On the one hand, the Commission was only authorized to investigate conditions in Bombay factories, and could only make its recommendations on that basis. On the other hand, if there was to be an Act, the Bombay millowners were – understandably – sure to cry blue murder if, by applying legislation to Bombay alone, it was to weaken its competitive position not only vis-à-vis Lancashire, but also other industrial concerns elsewhere in India. Some of the witnesses before the Commission were asked for their opinions on this, and there seemed to be a general consensus that, in the interests of a level playing field, legislation if enacted should apply to all of British India.

Shortly after the Commission published its report, the Government of Bombay decided to collect information from other parts of the Presidency: the production of knowledge began to spread spatially. Information was requisitioned from the steam ginning factories in the Collectorates of Surat and Broach.[70] The subjects of enquiry were similar to those of the Commission: hours of work, sanitary arrangements, ventilation, the education of children employed, and the number of holidays. The evidence produced by these enquiries showed that children employed in factories were by and large uneducated, and too young for the work they were expected to do.[71] There was a general consensus about the need for a simple enactment. The modalities of this, however, were not clear.

Meanwhile, in the public sphere, Sorabjee Shapurji Bengalee and *Rast Goftar* continued the agitation for factory legislation. Pressures within the city of Bombay – which, despite the talk of a general Act, always remained at the focus of legislative intention – began to mount rapidly. He wrote to the

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[70] J.C Kydd, op.cit. Also memo from C.B, dated 6.8.1879, to Home Judicial Department, GoI. NAI, Home (Judicial) A, 9-94 & K.W, January 1880.
[71] Kydd, op.cit.

British Parliament demanding a reopening of the question; more to the point, he began collecting detailed information independently on the conditions in which Bombay millhands worked, and made a detailed examination of the evidence gathered by the 1875 Commission, seeking to demonstrate – no hard job – that the weight of the evidence went against the lukewarm nature of the recommendations. In 1877, he proposed a Bill of his own, on the basis of the evidence he had collected.[72] This concretized two of the issues inchoately raised by the Commission's evidence – the regulation of working hours (predictably enough) and, with force, the need for a weekly holiday. In course of time, the campaign for a holiday on Sunday became *the* focal point of agitation in Bombay. The Commission of 1884-85, three years after the first Factory Act, had to take note of a letter from N.M Lokhande, President of the newly formed Millhands'Association, asking for a fixed holiday each Sunday, and signed by over 5.500 mill-workers.[73]

After a brief lull in the discussions around legislation, pressures in administrative circles mounted again from 1877 onwards. By March 1879, it seems, the Government of India had fully committed itself to a positive legislative enactment, limiting the age of workers and the hours of work for young children.[74] At the same time, discussions around Indian factory legislation reopened in the British Parliament. In August 1877, Shaftesbury observed that the objections to the Indian Act – the existence of oppressive labour conditions outside the factory, unfairness to millowners, strangling of the industry, and so on – precisely replicated the arguments against *English* factory legislation.[75] Debate continued in the House of Lords and the House of Commons. On April 4, 1879, Shaftesbury made another impassioned plea for regulation, constructing his argument along the lines that had been laid out by the Commission's investigation and other productions of relevant knowledge that may have come to his ears. He pointed to the absence of regularized holidays, the long hours that children had to work, the absence of any regulation of the work or the minimum age of working

[72] Mehta, op.cit.
[73] Kydd, op.cit.
[74] Memo from C.B, 25.8.1879, in NAI, Home (Judl.), A, 9-94 & K.W, January 1880.
[75] ibid.

children, dangers from machinery, and so on. He drew attention, again, to the injustice done to Lancashire by the competitive advantage enjoyed by Bombay millowners. Lord Cranbrook agreed that legislation was necessary.[76]

Pressure from within England, too, was reaching intense levels, then. Meanwhile, again following closely on the heels of agitation in English parliamentary circles, a Draft Factory Bill was promulgated, and on 4 November 1878 circulated to local Governments. This leads us into the most concentrated and intense period of debates and discussions around factory legislation prior to the 1881 enactment.

The Bill of 1878 was the first administrative document to work the ideas produced by the investigation of factory conditions into a coherent legislative shape. Like all proposed enactments, this involved a process of selection and exclusion, normalized by the administrative-legislative process and asserting a hegemonic influence over future discussion. Once the draft Bill had laid out the main lines of legislation, it appeared natural that enhancements and editions of its provisions should proceed, logically, from the argumentative foci established by it. But the exclusions here are as important as the emphases. The conversion of knowledge production into effective policy involved mediations that erased many of the points that had appeared, with varying force, in the evidence of the Commission of 1875, and in subsequent debates around legislation. It is necessary, then, to turn to an examination of the Bill and the mediations it both encapsulated and reproduced, for the discussions of policy that followed in administrative circles and the public sphere.

The Bill of 1878, in its opening lines, dramatized one of the avenues of debate. It extended 'to the whole of British India'.[77] This decision, of course, encapsulated a complex history of negotiation,

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[76] ibid., extract from the 'Overland Mail', Supplement, Friday, April 11, 1879.
[77] A Bill to Regulate Labour in Factories, section 1, in NAI, Home (Judl.) A, nos. 23-25, February 1879.

demands made by business circles in Bombay, protests from millowners and their supporters elsewhere in India, administrative advances and retreats on the question. The categorical nature of the principle of general effectivity generated much consternation in official discussions. After the Government circularized local administrations, a stream of opinions on the viability of the Bill in various parts of India flooded in. Correspondence from the Government of Madras held that the Bill was superfluous. The Bombay Government, naturally enough, upheld the principle of an enactment for all of British India. Responses from Bengal and the North-western Provinces were negative, though the response from Punjab (where there were very few factories) was positive.[78]

A memo from C. Bernard, of the Judicial Department, summed up what was at stake in, on the one hand, a permissive enactment, and, on the other, a positive one. '..the proposed legislation is in the interests of a section of the population, who do not know their own needs in this respect and could hardly make themselves heard if they did; also…it is against the interests of most of the managers….to ask for the application of the Act to themselves.'[79] At the same time, he argued, in theory, if millhands all deserved protection equally, the Act needed to be made general. His arguments against this provide an interesting gloss, which connect obliquely with the interests of Lancashire and English manufacturers generally. He argued for a permissive enactment, on the grounds that millhands were treated differently in different parts of India. In Bombay and Central India, where factories were run by Indians, they were treated badly and needed protection: on the other hand, where European-run enterprises were dominant (Calcutta, Rangoon, Kanpur), hands did not suffer.[80] This is one of the few genuinely blatant examples of a play of colonial difference enacted *within* the realm of the discursive positions on Indian factory regulation. It was, however, shot down, interestingly enough, on the grounds that if the Act was permissive, it would be seen 'by the Indian

[78] NAI, Home (Judl) A, nos. 9-94 & K.W, January 1880.
[79] ibid., memo from C.B, 6.8.1879.
[80] ibid.

public generally, as another instance of sacrificing the interests of India to the supposed interests of Manchester.'[81] The provision contained in the Bill went through after all.

An even more controversial section of the Bill sought to *define* a factory. This was not something that investigations of factory conditions had concerned themselves with. Their task, as they had seen it, was simple: the investigation of a working conditions in certain industrial enterprises – mainly cotton mills – that were unambiguously 'factories'. But actually defining a factory for legal purposes brought administrators face to face with the problems of categorizing forms of labour in India. The range of enterprises mobilizing collective labour for the purposes of manufacture of one kind or another were – and still are – so great in India that, depending on the lens one used, the term 'factory' could engross all establishments or practically none. The Bill had a lengthy definition, broken into several repetitive clauses. The operative clause – the last one – defined a factory thus: 'any premises in the same occupation, situate in the same town or place, and constituting one trade-establishment in, on or within, the precincts of which *fifty or more people are employed in any manual labour* exercised by way of trade or for purposes of gain in or incidental to the making of any article or part thereof, or the altering, repairing, ornamenting, finishing or otherwise adapting the same for sale.....'[82]

This was a definition that encompassed a very wide range of work-forms. At the same time, it was an arbitrary definition – what logic justified fixing the legitimate number of workers in a factory at fifty? From both points of view, the arbitrariness of this could be assailed. As Meade-King was to point out in his report five years later, there was nothing that technically justified any limit at all on the definition of a factory, in numerical terms. On the other hand, fixing the minimum size at fifty bred the opposite anxiety in administrative circles after the Bill was prepared. With such a wide range of reference, it was felt, the legislation might really spiral out of control. Officials worried about a definition of 'factory' that would include 'every bazaar-brazier who would run a small brass

[81] ibid., memo from F.P.H, 21.8.1879.
[82] Factory Bill, 1878, section 2 (g), NAI, Home (Judl), A, nos. 23-25, February 1879.

casting....every furniture workshop.'[83] The suggestion that was most favoured, as an amendment to this, came from the Bengal government, and represented a kind of compromise: a factory, legally speaking, it suggested, should contain not less than 100 labourers.[84] This was what was ultimately operationalized (though the 1891 Act reverted to the original number of fifty).

But the size of factories was not the only controversial aspect of the definition. As initially conceptualized, the purpose of the legislation was to protect millhands, specifically –for very vested reasons – cotton millhands in Bombay. But converting this into a law instantly created problems. There was nothing within the logic of the principles of law or social protection that would authorize limiting such legislation to a single industry. Immediately after it was suggested, the Revenue, Agriculture and Commerce Department sought opinions on its applicability to enterprises run by the Government, including printing-presses and jail manufactories. (The former was excluded, eventually, and the latter was not.). But these were not questions that were easy to resolve. As more than one official pointed out, what precisely was the principle on which government printing presses – to take just one instance – could be excluded from the purview of the Bill? Didn't children working in these establishments need protection?[85] Similarly, there was extensive discussion in government circles about whether mines could be included within the Factory Act. It took till August 1879 to finally rule collieries out of the scope of factory legislation, on the grounds of an apparent irreducible difference in the form of labour, which couldn't be subject to the same regulation as factories.[86]

We find, in these discussions, a common problem asserting itself with force. This has to do with the tension between the desire of the administration to put a limited piece of legislation into action and

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[83] NAI, Home (Judl.), A, nos. 9-94 &K.W, January 1880, opinion of C.B, sent to Honourable Member, 15.12.1879.

[84] ibid.

[85] NAI, Home (Judicial) A, nos. 23-25, February 1879, including correspondence between C.B (19.11.1878), C.L.T (29.11.78), A.O.H (29.11.78), J.M.M (14.12.78), D.F.P (4.1.79), A.O.H (20.1.79), C.E.B (23.1.79) and C.B (24.1.79)

[86] Home (Judl.) A, nos. 9-94 & K.W, January 1880.

the wider, universalizing principle of law itself. At some level, a law seeking to protect labour had to be grounded in an argument about working conditions and the need for protection that could be generalized, if not universalized. The despotic nature of colonial power here ran up against clear limits because it had to be enshrined in law, which had its own codes. The Bill, by seeking a definition of the object of regulation, was unwittingly opening up a Pandora's box.

It was the Bill that, for the first time, unambiguously marked out the factory *child* as the major legitimate recipient of protective legislation. This flowed logically, to a degree, from the emphases of the Commission and other investigations. The question of the age at which children were to be employed, working hours for children, and their education, had been matters of primacy. However, what the Bill did was to erase some of the contexts in which information about children had been generated. Work-hours had been the subject of investigation *generally*, and the existence of sometimes abnormally long hours had been seen to impinge on all classes of labourers. Similarly, questions about the safety of machinery – which had revealed varying pictures of danger for *all* labourers, now became focused on the child. Children were 'not to clean any part of the mill-gearing or machinery in (the) Factory while the same is in motion'.[87] Every part of the machinery 'near which any child or young person is liable to pass' was to be fenced.[88] The work of ensuring safety, therefore, was presented primarily as a means of protecting the factory child. In other words, the safety of adult labourers was kept insecure, and the status of their relationship to the machinery – and their rights against the danger posed by it to them – was left ambiguous.

The most significant provisions with regard to children, though, concerned the age at which they were to be employed and the hours they could be worked. The Bill took its cue from factory legislation in England, and introduced a distinction between 'children' and 'young persons' as two subjects of protection. A child was defined as over twelve years of age, and a young person was

[87] Factory Bill, 1878, section 6.
[88] ibid., section 7.

defined as between twelve and sixteen.[89] Children were only to be employed if they were over eight.[90] They were to be employed not more than six hours a day, and young persons were not to be employed more than eight.[91] Once again, the reduction of a complex and telling body of evidence of overwork to the sole question of the conditions of child labourers is significant. It helped balance a certain commitment to the idea of protective legislation with a limitation of the scope of such legislation to the extent that the actual working of the factory was not impeded. Children were, as the evidence from the Commission shows, never the major part of the productive workforce. Looked at in the broader context of the specific pressures behind legislation, this perhaps demonstrates that, initially, at the crucial juncture the pressures of Bombay millowners won out over the Manchester lobby. By refusing to regulate the hours of work of adult labourers, the Bill ruled out the possibility of any genuine threat to the economic viability of the mills.

As Emma Alexander has pointed out, the Factory Act was a major step in the ideation of the child as a being with a separate identity, independent of his or her imbrications in caste, community and family ties.[92] This is a suggestive point, dovetailing with Michael Anderson's argument about the break implied by the separate ideation of labour. The 'child' emerged as a sign whose referents could change through an act of law. At the same time, he/she emerged as a point of contestation, as someone who had to be tracked down and pinned to a fixed identity. A system of certification, it was soon realized, needed to be devised to decide the age of children. This was operationally made difficult by the absence of birth certificates and the difficulty of deducing the age of working children from physical appearance. (The catchword for this difficulty, in official circles, was the 'early ripening'[93] of natives). The working child soon became the focus of knowledge generation, as

[89] ibid., section 2.
[90] ibid., section 4.
[91] ibid., section 5.
[92] Emma Alexander, 'Labour Regulation or Protection For The Factory Child'.
[93] NAI, Home (Judl.), A 9-94 & K.W, January 1880.

government departments and local administrations were asked to supply information about the children employed in enterprises.[94]

At the same time, the provision of protective regulation for children generated anxieties. Time and again, the argument was made in official circles that the definition of a child that applied to English factory children could not apply in India. Indian children were supposed to 'ripen early', they were not as exploited as their English counterparts, and they required no protection.[95] An argument of situational difference was deployed with frequency: Indian children were habituated to their work, they would 'degenerate' if not employed in productive labour at an early age, children outside factories suffered much more, and so on.

There was particular anxiety about the possibility of millowners being obligated to provide for the education of factory children. The 1875 Commission had produced evidence to show that there were 'enlightened' employers who educated the children they employed, and the Commissioners often focused part of their interrogation on this question. The thought that this might become a general responsibility seems to have scared both millowners and some administrators. The common response, in the Commission's interviews, was to say that the Government should be asked to take on the responsibility of educating factory children, if indeed such a responsibility was in order. The consensus seemed to be that it was not. The District Deputy Collector of Surat, in 1875, had this to say: 'As for education, it would be a strange anomaly to insist upon it at the expense of the proprietors of the factories.....These children would have been brought up in an equally, if not more, ignorant condition, if the factories had not existed; and certainly in much more indolent habits. People far above them in social position have yet to learn the benefits of education.'[96] There were also arguments made by some millowners that technical education would benefit working children

[94] ibid.
[95] ibid.
[96] Report of Mr M.C Entee, District Deputy Collector, Surat, to Government of Bombay, 20 November 1875. Quoted in Kydd, op.cit.

much more than a general education.[97] So, besides the position – frequently reiterated – that mills were a sort of salvation for children, there was also a clear statement of the limits imposed upon the possible social needs of children because of the existing social hierarchy. Children of a certain class, in other words, did not need to be educated. In the face of these arguments, the pressure for education for mill children was gradually dropped.

The centring of legislative discussion around children served, as I have already written, to erase other possible regulative concerns, even as it recast general provisions (such as the safety of machinery) in terms of child safety. One of the concerns that was systematically obscured by this was the regulation of the hours of work of women working in factories. In England, women and children had been bracketed together for legislative purposes. For the 1875 Commission, this was a concern that was carried over; questions about the working hours and conditions of children were usually accompanied by similar questions about working women. I have already referred to Dr Joseph Anderson's evidence that women were often employed in the late months of pregnancy, at considerable risk to themselves.[98] The roughly equal wage scales of women, children, and unskilled labourers demonstrated that this was, on one level at least, a category that should be legislated for separately. Instead, the 1878 Bill – again – reduced this to a question of child labour alone, thereby also avoiding having to address the question of wages at all.

The problem of working women, however, did not disappear with the Bill's erasure of it. A.O Hume, at that time Secretary to the Department of Revenue, Agriculture and Commerce, wrote in August 1878 that women needed to be included within the proposed legislation.[99] Their labour, he argued, needed to be limited to ten hours a day. In January 1879, the Surgeon-General of Madras wrote tp the provincial government, again arguing for the protection of women. He extended this argument to

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[97] *F.C 1875,* passim.
[98] ibid., evidence of Dr Joseph Anderson.
[99] Note by A.O Hume, NAI, Home (Judl.) A 9-94 & K.W, January 1880.

demand the protection of women, children, and young persons from night work, and also wrote that women bearing children stood in need of special protection. Following the logic of his own arguments, he asked for a much more comprehensive piece of legislation, which would protect women, children, and adult labourers as well, though on differential scales of protection.[100]

There were pressures for the extension of legislation from other quarters as well. The Bombay Gazette of 23 November 1880 contained a report of the murder of a woman mill-worker, Nusseebehn, by a jealous former lover, on her way from her home in Grant Road to her workplace, the Colaba Spinning and Weaving Mills, at 4 in the morning. She needed to rush to the factory that early because it opened at dawn, and she stood to lose employment if she didn't leave on time.[101] This is a revealing glimpse of the pressures and tragedies of working-class life in Bombay in this period. What is equally revealing is a petition sent to the Government of India, deploying this incident as an argument for more comprehensive factory legislation.[102]

The signatories of this petition identify themselves as people who had already sent a memorial to the Bombay Legislative Council a month before this incident, asking for factory legislation. They reiterate their arguments in the light of the murder, and their demand weaves together an argument about the danger to women posed by existing factory conditions with a plea for more comprehensive legislation for all classes of factory labour. Extrapolating from the murder, they draw attention to the insecurity of women who have to leave their homes in the dark of night, and go to their workplaces singly or accompanied by other women. But they also extend this to a general argument about the lives of factory labourers, the insecurity of life – and the dangers to life – that they have to face daily,

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[100] G. Smith, M.D, Surgeon-General, Indian Medical Department, Madras, to Chief Secretary, Govt. of Madras, 20 January 1879, in NAI, Home (Judl), January 1880, no. 25.
[101] Extract from *Bombay Gazette*, 23 November 1880. Appended to Papers Relative to the Factories Bill, NAI, Home (Judl.) B, nos. 103-104, February 1881.
[102] Memorial to D. Fitzpatrick, Esq., C.S, Secy. to GoI, Legislative Dept., Calcutta, 10 December 1880, in Papers Relative to the Factories Bill, NAI, Home (Judl.) B, nos. 103-104, February 1881.

because of the hours at which factories open, the inhuman way they are forced out of their beds early in the morning, and so on.[103]

This is an interesting petition for several reasons. First, it offers evidence from a 'small' event in Bombay – which is unlikely to have made big headlines – to the Government of *India*, as an argument for a positive enactment to protect labour across India. Clearly, strategies were being formulated – however limitedly – within the public sphere, to accomplish factory legislation. Second, it interprets the tragedy of the factory as the tragedy of the woman, thus implicitly arguing for an enactment whose scope would be greater than that of the Bill already in existence. Third, and simultaneously, the argument seamlessly breaks the boundaries between the protection of a particular category of labourer and the protection of labour in general. The danger faced by women going to work at dawn is read as emblematic of the existential insecurity and tragedy of a factory life, whether lived by man, woman, or child. It is a petition that articulates the experience of working-class suffering as universal.

This seems to have been the anxiety that dominated the minds of those hostile to legislation, both within and outside official circles. How was it possible to sustain a legal argument that protected only one category of labour? An answer to this seemed to be to fix child labour as the object of protection. This could be read not just or even primarily as a protection of labour, but also as a protection of childhood, marking out the legitimate from the illegitimate labourer, protecting, within the factory, 'those who cannot protect themselves', and freezing it there. Extending this legislation to women would, in administrative terms, raise more difficult questions. Once the experience of exploitation that needed to be regulated began to be generalized, where could one stop with the regulation? This worry seems to me to have perhaps played a role in the eventual refusal to extend the 1878 Bill to women. The correspondence between officials at this time anxiously harps on the

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[103] ibid.

need to stem the consequences of legislation, to make sure the enactment is as limited as possible, because extending the scope of the Act would eventually generate immense hostility from Indian millowners.[104]

But there were provisions within the Factory Bill of 1878 that contained more general thrusts, and were likely to be severely censured by millowners. First, there is the regulation of worker-millowner relations in matters relating to accidents. The millowner, by the Bill, was required to keep machinery fenced and protected, especially if there was the danger of children passing near it.[105] In case of accidents and injuries, he was expected to send 'such notice.....occurring to persons therein to such authorities and within such time as the local Government may from time to time by rule direct.'[106] If he neglected these responsibilities, he was liable to pay a fine of two hundred rupees.[107]

Here was the crux of factory legislation, the aspect that made it so unpleasant a prospect for millowners, no matter how mild the specific provisions (and, given the prior experience of comprehensive factory legislation in England, these provisions could hardly have been milder). The rules about accidents represented an encroachment upon the factory's autonomy, directly introducing an arbitrator – the State – into what should (from their point of view) have been a *laissez-faire* arrangement, and threatening them with punitive measures for transgression of a set of norms that did not square with the logic they operated by. The Factory Commission of 1875 is replete with instances of complaints about the inefficiency caused by State regulation, the possibility of a breakdown of the 'harmonious' relationship between capital and labour.[108] This is a worry echoed by the vernacular papers of the late 1870s and early 1880s.[109] With the introduction of law into factory

[104] NAI, Home (Judl.), A 9-94 & K.W, January 1880.
[105] Factories Bill, 1878, sec. 7.
[106] ibid., sec. 8.
[107] ibid., sec. 9(b), (c), (d). Sec. 9 (a) imposes the same fine for the offence of employing children and young persons in factories beyond the limits prescribed by the Bill.
[108] *F.C 1875*, passim.
[109] See, for instance, *Bharat Mihir*, March 29 1881, in *RNP Bengal*, 1881.

relations, a space seems to be chalked out where the millowner is suddenly deprived of his decision-making autonomy, and is forced to regulate his own behaviour and make adequate provisions for the protection of his hands.

Nor did the proposed enactment seal off these punitive threats at a particular point, because the modalities, as ever, were left unclear. These were another matter for discussion within administrative circles. There was, for instance, a suggestion made that there should be a specific provision for compensation included in the Act, in addition to a fine for unfenced machinery.[110] But how was this to be arranged? Here Hume made a radical suggestion, which would if implemented have conferred a great deal of agency upon workers injured by accidents: '....in all cases where an accident has occurred.....found to have in no way resulted from the rashness...of the sufferer.....he should be authorized to assess and propose for the acceptance of the mill or factory-owner a certain compensation, either in a lump sum or in the shape of a monthly allowance, or for a fixed period, or till death. That if the millowner accepted such award, he should sign his acquiescence of the same. The award thus signed to have the force of a decree of court. That if the millowner declined, the Inspector should be authorized to sue him in court for the same.'[111]

What the *possibility* of enacting provisions like this did, in theory, was to turn the agreement between millowner and millhand, achieved through a 'free' bargain, into a relationship negotiated – and potentially brought into question, on account of any act of transgression – by the law. At the same time, the person invested with the agency to appeal to the law against transgression was not the employer – here the situation was dramatically different from plantations, public works and mines – but the worker. Through a subtle and probably unintended loop, the relationship between millowner and millworker was being gradually construed as one of potential hostility and tension, vulnerable to the bad faith or exploitative tendency of the former, and thus amenable to regulation by law. The fact

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[110] NAI, Home (Judl) A 9-94 & K.W, January 1880.
[111] ibid., memo from A.O Hume, 7.8.1878.

that the only punishment spelt out by the Bill was a limited fine does not exhaust the significations of this: there was, from this point on, always a potential threat to the millowner's freedom of action within the factory.

But what was the mechanism for putting this into place? The Factory Bill authorized the appointment of factory inspectors to examine working conditions.[112] The status of these inspectors, however, was initially left unclear. It was stated that they 'may enter any Factory whenever any person is employed therein.'[113] But what was the penalty for not allowing them in? This was not specified by the Bill, nor were their precise functions. Further, as correspondence within the Judicial Department took cognizance of, it was unclear whether the decision to appoint inspectors was left to the discretion of the local government, or whether it was binding upon them. It was decided, in the discussions that led up to the enactment of 1881, to make more stringent, compulsory rules for factory inspection.[114] In the Bill, the role of the Factory Inspectors is kept muted: they occupy a fairly small space. But the implications of this provision – one that flowed logically from the very decision to regulate factories – are evident. The principles and practices of mill management were to be a matter of scrutiny by external agencies; the autonomy of the millowner was to be violated further. It is precisely because of the transformation this could potentially cause in the relative powers of State, capital and labour that the relevant provisions were kept muted, and not given any specific punitive dimensions even in the final enactment.

The Bill was tabled in the Council of the Governor-General on 7 November 1879, and a lengthy process of consultations and negotiations began. It passed through a Select Committee, and was

[112] Factories Bill, sec. 3.
[113] ibid.
[114] Memo from L, 29.8.1879, in NAI, Home (Judl) A 9-94 & K.W, January 1880.

finally enacted as Act XV of 1881 in May that year.[115] In certain respects it marked an advance of State authority over the 1878 Bill, but in others it marked a deliberate retreat.

The 1881 Act finally resolved the question of whether legislation was to be positive or permissive. It applied to all of British India.[116] This had been, as I have tried to show in some detail, the subject of protracted negotiations. The reluctance of most local governments to implement legislation probably bred a fear of possible furore from Bombay millowners if the Act applied to them alone. Interestingly, a communication from the Poona Sarvajanik Sabha, a body not known for its support of factory legislation, argued in support of the generalization of the Act: 'Such permissive enactments....are always fraught with great disadvantages....The necessity of protecting children from overwork is, if real, universal, and should be recognized and legislated as such. Even as it is, the law will not affect mills established in the Native states...and will thus favour these mills at the expense of those in British territory....In the general interests of the country we submit the permissive character of the enactment must be expunged and the measure be made universally applicable to all provinces.'[117]

There are important semantic shifts here, in this quotation from an organization clearly sympathetic to millowners' interests. In the sphere of public discourse, it appears that a simple appeal to the protection of the infant industry will not do. If legislation is to be opposed, *or* if it is to be generalized (and the Poona Sarvajanik Sabha was a body that had argued both positions), it has to be at least partly on the grounds of the interests of workers. Significantly, the protection of the Bombay cotton industry is now, after the enactment of legislation has been decided, seen to be possible only through the generalization throughout the country of an Act which they had opposed tooth and nail. And the

[115] Kydd, op.cit.
[116] The Indian Factories Act, 1881 (Act XV of 1881), sec.1, Appendix II to Kydd, op.cit.
[117] quoted in Kydd, op.cit.

terrain of debate for legislation, once the Act was passed, was going to be all of British India – itself, in the long run, a significant retreat for millowers' interests.

The definition of a factory, however, was considerably less generous to the worker than the Bill had been: it defined a factory as an establishment 'wherein not less than one hundred persons are on any day simultaneously employed'.[118] Further, it had to be in use 'for not less than four months in the whole of any one year'.[119] So in effect, a large number of enterprises using extremely intensive labour were ruled out of the scope of the Act. It was a characteristic of the labour process in the early mills that there would frequently be occasions when up to 40 per cent of the work force might be missing at a particular time in the day – which might, of course, happen to be the time that a Factory Inspector visited. The reason for this was the informal shift system that most mills had devised, often read by observers as 'idleness'. So a factory employing less than a hundred hands at work at the time an Inspector visited could, technically, be excluded from the Act. In addition, the pegging of the definition of a factory to the employment of over a hundred men was extremely arbitrary. When the Factory Inspector Meade-King visited in 1882, he wrote in his report that *any* definition by number was flawed. Even if a factory was to be defined by its employment of 20 hands, this would leave out some enterprises that deserved the label – and the regulation. On this basis, he argued for the extension of the Act to small factories, where there were especially cruel conditions of labour in operation.[120]

So there are two things happening in this provision. On the one hand, a certain advance is made by capital – the definition of a factory in the Act is much more favourable to it than that in the Bill was. However, at the same time, the Act enters the realm of controversy the minute such an arbitrary definition is authored. In other words, there is no closure effected with this provision: the definition

[118] Indian Factories Act, 1881, sec.2.
[119] ibid.
[120] Report on the Working of the Factories Act, , NAI, Home Judicial, October 1882, progs. 23-24.

of factories, as with much else about the Act, becomes a matter for contestation and argument. A new terrain of confrontation is marked out.

The nature of the State's physical intervention in the regulation of factories was made clearer by the 1881 Act than it had been by the 1878 Bill. It was made mandatory for local Governments to appoint Inspectors of factories, who were invested with the authority to enter the factory with their assistants when they chose, to examine the premises for any sign of violation of the Act, and to prevent the employment of any person considered below the minimum age prescribed by the Act.[121] There are two things to note here. First, though the Act compelled factory owners to keep registers recording the names and ages of children employed[122], this was difficult to impose in practice, for it was quite possible for children to shift from factory to factory. It was also possible for factory owners and managers to hustle children out of the factory at the time of inspection, so as to evade investigation.[123] Further, it was extremely difficult to ascertain the ages of children, despite the loose system of age certification by certifying surgeons marked out by the Act.[124] Initially, in fact, the onus was on the child to prove that he or she was of requisite age for employment – only later was it clearly spelt out that this was the manager's responsibility.[125]

However, the system of factory inspection and that of age certification did introduce the State into factory relations in an unprecedented manner, as did the provision that compelled employers to furnish the authorities with notices of serious accidents. We see the same pattern playing itself out here: initially, the Act provided for the reporting of only 'serious injuries', but this was not closed to further debate. The issues of how exactly compensation for accidents was to be achieved, and how a 'serious' injury was to be defined, became new matters for the confrontation of clashing viewpoints.

[121] Indian Factories Act, 1881, sec.4.
[122] ibid., sec.11.
[123] ibid.
[124] ibid., sec.4 and sec.5.
[125] Emma Alexander, op.cit.

Once again, a feature of factory life – the constant danger of accidents – that was naturalized and read off in terms of negligence prior to the Act, was made the basis for workers' claims and entitlements after legislation. The ways in which workers' bodies were threatened by machinery became the subject of a prolonged and complicated set of discursive entanglements, and the source of major tensions around the space of the factory. This is the subject of the third chapter of this dissertation.

Some of the provisions concerning children were extended by the Act, though it abolished the distinction between 'children' and 'young persons' on the grounds that this would generate a needlessly complex situation, more attuned to English conditions (where the distinction operated) than to Indian.[126] A child was defined as a person below 12 years of age. The upper limit of child employment was defined as nine hours, as compared to six for the child and eight for the 'young person' by the Bill. These were major retreats for the regulation of child labour.

The advances were more subliminal, but no less real. An hour's interval was fixed for 'food and rest' for children during the day.[127] The exact times of these intervals were to be fixed by the local Government.[128] The occupier of the factory was to set up printed or written notices in each factory, showing the times at which such intervals would be allowed.[129] Further, four compulsory holidays a month were fixed for working children, and notice of this had to be provided by employers to the local Inspector.[130]

How are we to read these provisions? To take the question of intervals for meals first, what this marked out was a fixed time for the child labourer – later to be extended to labourers in general –

[126] NAI, Home (Judl.), A, nos. 9-94 &K.W, January 1880.
[127] Indian Factories Act, 1881, sec.7.
[128] ibid.
[129] ibid.
[130] ibid.

that the employer had no legal authority to interfere with. This did not necessarily suit the immediate interests of working children, who were used, it seems, to ad hoc and not very strictly regulated intervals. However, notice that the Act contained no provision forbidding other irregular intervals to child workers. In addition to the breaks that they took daily, children were now *entitled* to an hour all to themselves, with no measures mentioned that regulated this time. In course of time, this would become a popular demand, and be legally implemented for all workers. So would the provision for holidays for children eventually be universalized for all categories of workers. Time, potentially, became something that could be struggled for, in varying situations in different ways. It could no longer simply be a measure of employer strategies of production and authority.

Equally significant is something that is rarely recognized – the clause making the fixing of notices on factory premises compulsory. This had, interestingly, been practiced in most mills before this time, but for very different reasons. Under the general law of master and servant, a copy of work rules had to be posted somewhere on the premises in order to establish employer authority.[131] With this new provision, there was a dramatic shift in the signification of notices. For the first time, notices had to be put up, by law, marking an important entitlement for a particular (though small) class of labourers. The infringement of this rule supplied a reason for complaint, and another potential ground of contestation. Employers, Meade-King observed, had no particular difficulty complying with this rule.[132] Be that as it may, potentially the employer's legitimacy was now under a shadow – it rested on his ability to publicize the entitlements of some of his workers, entitlements made externally of his authority and wishes. And at the same time, this marked out a relation of knowledge: the employer's authority was legitimate only insofar as his workers – or some of them – were made aware, *by him*, of demands they could make upon him by law. A tense reciprocity was enjoined by regulation.

[131] Morris D. Morris, op.cit.
[132] Report on the Working of the Indian Factories Act, 1882, op.cit.

I have made a number of contentions in this chapter. First, I have argued that producing these sites of investigation and protective legislation enabled, against the wishes of the opponents and also many of the proponents of legislation, a constellation of potential grievances and points of tension that could not be contained within the provisions of the first Factory Act. At the same time, the Act did produce certain key points of focus that made it more difficult to raise questions of another kind – about wages, benefits, and so on. A tense dialectic operated between the closures enjoined by legislation and the reproduction of questions that destabilized these closures, produced by the very same process of legislation. A certain ladder of discursive steps was built *in potentia*, available for the enactment of new forms of protection – the regulation of women's labour, for instance, or the extension of protection to male adults. Through much of the twentieth century, the regime of protection for factory workers continued to expand.

But there are further ambivalences here. The process of regulation, differentially conceived and implemented in factories and other sectors of labour deployment, enabled the legal-conceptual split between what we now call the 'formal' and 'informal' sectors. This returns us to Mohapatra's argument, which the early part of this chapter dealt with. The *production* of informality and formality, of a split in the ways the needs and entitlements of different branches of labour were conceived, proved to have immense lasting power, and sustained a very narrow definition of 'factories' as the privileged site of legislation. Vast areas and experiences of labour that could claim equally, if not more, pressing need for investigation and protection were left out of the legislative loop. This was a process that was, naturally, contested many times, but managed to sustain itself. This lies at the base of the peculiarity of the discursive framework of Indian labour law through the twentieth century, on the one hand assembling an impressive array of legal benefits and entitlements in the formal sector, and on the other hand, through the very reproduction of legal 'informality', denying the bulk of these to the vast majority of labourers in the country. In certain ways, this split production of legal definition is being contested today. Tragically, it has taken the form not of the extension of the

benefits of the formal sector to the informal sector, but the increasingly intensified collapse of the former into the latter.

In the next chapter, I will begin to investigate the actualization of the 1881 Factory Act, or, to put it in more mundane terms, its administration. 'Administration' is a word that suggests the absence of the dramatic; it conveys a sense of everydayness and routine practice. In what follows, however, it will be made to bear other meanings and intensities. As the Act came to be implemented in Bombay in the early 1880s, a number of small incidents and micro-processes, redolent with tension, were eventuated. These were, of course, nothing of earth-shaking magnitude. But the terms in which the anxieties of state officials and millowners were expressed do suggest that there was no easy closure of tensions with the passing of the Act; indeed, that legislation may have generated more worries than it could resolve and stabilize. The relationship between state, capital, and labour was negotiated on new terrains. New fields of discourse were produced, and the stability of these came to be threatened by the propulsion of unexpected events and practices. It is to some of these events and practices that I will now turn.

Confronting Anxiety, Working the Law: Factory Regulation in Bombay, 1881-1882

I will now try to unravel some of the tensions that emerged in the process of setting the Factory Act to work. The administration of the Act involved a complex medley of forces, including factory inspectors, surgeons, millowners, government officials, and external observers. These forces articulated the idea of factory regulation in different ways, and the differences in their approach often led to confrontations with one another. These confrontations happened on a discursive level, as arguments about specific rules and injunctions under the Factory Act bred, crystallized and solidified bodies of opinion and platforms of argument – about the utility and necessity of the Act, about its efficacy, about, above all, its *meaning*. The process of implementing factory regulation is a crucial part of the history of this law, for its meaning was extended, transformed and contested through the process of implementation. Practice and discourse thus entered into a complicated relationship with one another.

My approach is not one that attempts synthesis, collating a wide range of material in support of a broad hypothesis. Rather, I have tried to read the documentary traces contained within a limited range of reference – principally the records of the General Department of the Bombay government between 1881 and 1882, with some degree of care and attention, to formulate, as it were, a close reading of a particular kind of literary trace. I hope to have shown that the discursive trajectories of the time were multiple and not always coherently articulated with one another. They were, above all, tense. Colonial officials, whose correspondence constitutes the bulk of my archive, were embedded in the tensions produced by factory legislation. Crucial to these tensions was a fear of the breakdown

of relations between capital (represented by millowners) and the state, a fear adumbrated in the network of letters, memos, circulars, submissions, and resolutions that circulated within government departments. Why was there this fear?

My reading of official sources suggests that the formulation of factory regulation, by introducing the state into a sphere where the millowner had hitherto been considered virtually sovereign, interrupted the articulation of authority in mills whether officials actually wished to do so or not. The very existence of a body of protective rules set certain limits to the practices of employers, and reformulated, in part, the meaning of the triadic relationship between capital, labour and the state. There was a potential slide towards the naming of the state as the protector of labour against the exploitation of capital. The documents of the time reveal an anxiety about this, since such a meaning was very far from the intentions of most state officials. However, the working of the Act also came to produce situations where, willy-nilly, this identity was not one that the state could fully refuse to accept. Two horses had to be ridden at once, and this was the principal source of the tensions that were produced and reproduced around the issue of factory regulation. Were state and capital moving in the direction of an adversarial relationship? This was not a question that was resolved. It was, however, the source of continuing tension.

Extortion and Anxiety: The Case of Dr Partridge

On 3 September 1881, H.E. Jacomb, the Collector of Bombay, found on his desk a letter from a J.W. Latimer, who was the Secretary of the Anglo-Indian Spinning and Manufacturing Company.[1] Latimer

[1] Letter from J.W Latimer to the Collector of Bombay, enclosed in Collector's letter to Secretary to Govt, General Dept, Bombay, 6 Sept 1881, in General Department, 1881, no. 328, Part II, Maharashtra State Archives (MSA).

was worried by a note he had received from W.P. Partridge, Presidency Surgeon for Bombay's Byculla District, and thereby entrusted with the task of certifying the ages of children employed by mills in Bombay. He enclosed a copy of the surgeon's letter for Jacomb's perusal, and the latter was sufficiently disturbed by the substance of this communication to send a copy to the Bombay Government. The matter produced some anxiety in government circles for several weeks, and it was not till the end of September that it was declared resolved. The issue was a small one, but also an interesting sample of the kinds of worries the administration of the Factory Act caused its administrators to suffer.

Following the successful passage of the Factory Act in May 1881, the government of Bombay made certain provisions that spelt out the duties of millowners and specified government servants with respect to the safety and entitlements of factory operatives. Occupiers of factories were compelled by these rules to keep registers of children certified to be of working age and show them to factory inspectors on demand. Certifying surgeons were given the work of granting certificates to children they examined and keeping records of this.[2] The three Presidency Surgeons of Bombay, Dr McConachic for Malabar Hill, Dr Arnott for Fort, and Dr Partridge for Byculla, were appointed the acting certifying surgeons for factories.[3] Byculla was the district in which most of the mills were located, so Partridge naturally had a larger job on his hands than the other two doctors.

The certification of age was no easy matter, since there was very rarely any official proof of a child's age, and, as colonial administrators and observers kept complaining, the physical stature and fitness of children offered no clear index to their age. The Act itself, after much debate and acrimony, had finally defined a child who could legitimately be employed in a mill as between 7 and 12 years of age. 'Children', defined in this arbitrary manner, were not allowed to work more than nine hours a day.

[2] Rules under Factory Act, no. 2972, G.D, Bombay Castle, 10 September 1881, in G.D., 1881, no.328, Part 1, vol. 3., MSA.

[3] Circular from J.M. Campbell, Acting Collector of Bombay, to factory owners, July 1881, cited in Collector's letter to G.D., op.cit., MSA.

Determining the age of children was, for surgeons, at best a series of enlightened guesses. There is little evidence of their concrete practices in this regard, but one can imagine several processes at work – sustained interrogation of children by surgeons, certainly, but also protracted negotiations between millowners and surgeons, perched on the thin borderline between legality and illegality. The Partridge affair, as I term it, offers a glimpse of one particular kind of negotiation, made visible and dramatic by the forced involvement of the Bombay government in the matter.

Partridge's letter to Latimer stated the doctor's willingness to examine the children employed in the Anglo-Indian Mill (run by the Anglo-Indian Spinning and Weaving Company) and grant them certificates of age. It concealed a barely veiled threat, citing a fine of Rs.500 that could be imposed if any child under twelve was found working full-time, or if anyone under seven was found working at all. 'It will be doubtless clear to you', wrote Partridge, 'that it will be a decided advantage for each millowner to be furnished with certificates.'[4] Further, he asked the millowner to agree to send all his boys for examination in batches of not more than ten at a time, and to pay Rs.1 per examination. 'It would save much trouble if the fees could be brought at each examination.' The proposal to pay a fee for each child, Partridge wrote, had already been approved by the manager of another mill, the Chanda Ramji Mills.[5]

Partridge's demands contained a number of probably deliberate misreadings of the Act. First, the fine prescribed for employing children under the minimum age was Rs.200, rather than Rs.500, the figure Partridge gave Latimer. Second, the Act did not explicitly make it compulsory for millowners to present all their children for examination, but only those whose age was ambiguous (who, however, would define ambiguity?). Partridge, perhaps sensing the millowners' anxiety about potential accusations of illegal employment, was turning the pressure on, and thereby giving himself the

[4] Letter from W.P. Partridge to J.W. Latimer, 1 Sept 1881, in ibid.
[5] ibid.

opportunity of turning a quick buck. If all the children in the mill had to be paid for at the rate prescribed by Partridge, he potentially stood to make not negligible financial gain.

The major distortions of the letter of the law in Partridge's correspondence with Latimer, however, were based on problems that had arisen some time before this issue erupted into controversy. In late July, Surgeon-Major Arnott, the Presidency Surgeon for the Fort district of Bombay, wrote an irate letter to the Surgeon-General of the Bombay Government, complaining of having lost a whole forenoon examining 120 children sent by the manager of Chanda Ramji Mills. There was no legal provision for the payment of certifying surgeons at this stage, but the manager agreed to pay Rs.1 per child examined, thereby probably giving Partridge the idea of charging a fee.[6] There existed, however, no official rule about the remuneration of surgeons for the examination of factory children. This was a matter that was discussed within government circles in July and August. Would surgeons have to gratuitously examine all children who were sent for examination to them? If examination was not to be gratuitous, how was their remuneration to be fixed? Officials were clearly anxious that this should involve no extra burdens upon the state exchequer, beyond the salaries already drawn by the Presidency surgeons for their other duties. But how then to ensure the workability of certification, which – given that the Factory Act virtually protected *only* child labour – was at the heart of protective legislation?

The particular policy formulation designed to confront this problem, contained in a government resolution of 18 August, was a peculiar one. The resolution stated that the Chanda Ramji Mills' manager had, in paying an agreed fee, acted 'in the spirit of the Act, and is not to be discouraged.'[7] It admitted that granting certificates under Section 5 of the Factory Act was a heavy burden. However, instead of making legal provision for payment of a regular fee by millowners – which would have logically extended the provisions contained in the Act – the makers of this resolution chose, instead,

[6] Letter from Surgeon-General with Govt of Bombay, G.D., no.3299, 28 July 1881, MSA.
[7] Resolution no.2729, Bombay Castle, G.D, 18 August 1881, MSA.

to *legally* validate a *laissez-faire* arrangement for payment between surgeons and millowners, but at the same time to spell out the coordinates of this arrangement. The wording ran thus: '...if millowners are willing to pay a fee for the examination of children they wish to employ for their own protection, His Excellency in Council authorizes its receipt by the Certifying Surgeon. The fee may be Rs.1 per head when the number certified at one time does not exceed ten, but any over that number should be charged at 8 annas per head, and when the number is twenty or over, no larger capitation fee should be taken.'[8] A fairly strict sliding scale of payment, then, was enjoined by law. But the anxiety that this should not constitute an 'imposition' reappears in the very next sentence of the resolution: 'These fees should be optional and contingent on the millowner desiring certificates before employment.'[9]

On the one hand, Arnott's complaint signaled an incipient discontent that could only grow, at the lack of remuneration for the work of certification performed by surgeons. At the same time, the thought that a fee should be slapped upon millowners by law evoked fears of antagonism from the powerfully organized millowners' lobby. Behind all this was the anxiety that compulsory certification represented an unwarrantable intrusion upon the millowners' right to run their factories as they would like to, a worry powerfully articulated in arguments around the issue of factory legislation since the mid-1870s. But if a regularized system of certification were not instituted, the very basis of protective legislation for children would be undermined.

To tackle this, officials chose to formulate policy by means of a series of ambiguous statements. The payment of fees was made contingent upon the millowner's wishes. This instituted a fiction of free choice, since there was no legal injunction that made it compulsory for millowners to subject each decision they made to employ a child worker to state scrutiny. However, if such a decision transgressed the law of minimum age, it was punishable. For the capitalist, certification of his employees was an option, since only children of doubtful age needed certificates. But the sunken

[8] Ibid.
[9] ibid.

frames and emaciated bodies of children working in the mills, described by many contemporary reports, meant that age was indeterminable by physical appearance: seven and six shaded off into one another, as did twelve and thirteen. And there was, of course, generally no documentation that proved a child's age, most children of the urban and rural poor being born outside regimes of medical protection and regulation. So the decision to not submit children for certification was fraught with danger. Second, the surgeon was only compelled to examine children of doubtful age, which technically lessened the burden of his work. However, in effect he would still have to examine a great number of children, doubtful age being the constant that it was. What the injunction did, however, was to refuse to make a clear legal formulation about certification that defined the limits of choice for the millowner and duty for the surgeon. This bred ambiguities of its own.

Even more critically, the resolution wavered deliberately between the institution of a compulsory fee and the recognition of free negotiation between surgeon and millowner. If the millowner wished to pay a fee, he was free to do so. And this choice was regulated. The sliding scale of payment – Rs.1 for ten children, 8 annas for more – was promulgated, in all probability, to ensure that surgeons could not extort any amount they liked from millowners. If fees were to be paid, they would be paid only according to this scale. But the formulation that fees were purely contingent upon the millowners' wishes did not square well with this. Did this mean, correspondingly, that medical examination and certification were also contingent upon the surgeons' wishes? If a millowner was not willing to pay – and why would they *want* to pay? – did the surgeon have the right to withhold his services? The ambiguous and incomplete wording of the resolution left this unclear, and a gaping loophole remained in the text of the law.

It was this loophole that Partridge seized upon, much to the dismay of the Government of Bombay. His letter to Latimer played cleverly upon these constitutive ambiguities in the regulative regime. His statement of purpose, put baldly, runs along these lines: you, the millowner, must have your child

workers' ages certified by me, and pay me Rs.1 per child, or else be prepared to face a fine of Rs.500 under the law. He did not explicitly state that payment was compulsory, but strongly implied that he would not agree to certify children without payment. And the clause in his demand that made it necessary to send children up in batches of ten and not more represented, of course, a brilliant deployment of the provision that surgeons could charge Rs.1 per head for groups of ten children. The law, then, was being turned to good pecuniary advantage.

Latimer's letter to the Collector of Bombay, Jacomb, contained a barely veiled threat. He suggested that if examination fees were to be enjoined upon him, he would be forced to deduct the amount from the wages of the children employed in his mill.[10] Partridge seems to have been aware of this possibility, since his letter to Latimer mentions this nonchalantly, without any effort to show concern about its impact on the boys' earnings.[11] Millowners, then, had a strategy ready to circumvent impositions of this kind, and in sheer practical terms the issue was not so very bothersome. What the correspondence reveals, though, is anxiety that operates at another level, and cannot be reduced to the practical difficulties of working the Act. Rather, these difficulties constitute the stage upon which the drama of the developing relationship between millowners and the state was enacted, and the ways in which the future of this relationship was envisaged.

What was the texture of these emerging worries? An indication is offered in a letter Jacomb wrote to the Secretary of Government (General Department) of Bombay on 6 September, three days after he received Latimer's worrying communication. Jacomb, stating he had visited several factories to ascertain the ages of children, spoke glowingly of 'the spirit in which the provisions of the Act have been received by millowners, the uniform courtesy shewn me by themselves....as also their prompt and cheerful compliance with all my requirements'.[12] He went on to add that the Act had worked

[10] Letter from J.W. Latimer to the Collector of Bombay, 3 Sept 1881, op.cit, MSA.
[11] Letter from W.P. Partridge to J.W. Latimer, 1 Sept 1881, op.cit, MSA.
[12] no. 310, Bombay, 6 Sept 1881, MSA.

smoothly, 'and I think therefore that it is much to be regretted that Dr Partridge should have seen fit to address a letter to Mr. Latimer who has good standing in the mercantile community and possesses considerable influence among millowners, calculated not only to be misleading....but also productive of some degree of irritation, inasmuch as his proposals are opposed to the letter and intention of the Act, and are moreover ungraciously premised by an allusion to the liability of the millowners to a penalty....which, at least, has the appearance of a desire to enforce upon Mr. Latimer's acceptance the proposals as to fees submitted to him for approval.'[13]

This opens a window upon the way the Factory Act was imagined by its executors at its inception. The knowledge of factory labour conditions that had been produced by the investigative commission of 1875, as I have argued before, contained a dangerous surplus of information that was potentially damaging to the myth of the relative prosperity and happiness of mill workers. In millowners' representations, and the reports of newspapers sympathetic to millowners, rhetorical strategies were being constantly devised to contain this volatile knowledge, through an invocation of the virtues of the factory system. This form of rhetoric found its way into the documents and correspondence of state officials as well. Men like Jacomb were in an uncomfortable position. On the one hand, the formulation of the Act as a piece of protective legislation wedded them, independent of their will, to the implementation of a law that ran against the idea of the capitalist's sovereignty in the workplace, and constantly ran up against the complaints of a powerfully organized millowners' lobby. This lobby, constituted by a significant portion of the city elite, was not one the government wished to antagonize. So documents of the time are replete with protestations that the Factory Act was actually in the interests of the harmonious working of industry, and the smallest sign of approval of its provisions on the part of millowners was trumpeted as a victory for the idea of the Act. It was clearly seen to be necessary to construct the legitimacy of the Act on more than the ground of workers'

[13] Ibid.

interests and the protection of children; the consent of millowners, and the fiction that the Act served their interests, needed to be maintained to reproduce this discursive consensus.

Partridge's transgression destabilized this consensus. And, significantly, this happened not through active resistance to the idea of state-millowner cooperation, but through something much more routine – the corruption and distortion of the Act in the work of putting it into practice, such distortion as could accompany the implementation of any law. Minor loopholes in administrative discourse produced the possibility of Partridge's extortionist claims, but this in itself betokened a wider threat. The very existence of an administrative setup that would scrutinize the practices of millowners – doctors, inspectors, civil servants – posed a structural obstacle to their freedom to run their mills as they chose. Perhaps, then, the Act itself contained something structurally hostile to the harmonization of the interests of capital, labour and the state. What gave this particular controversy its depth, moreover, was the fact that labour did not actually at this stage possess a voice that was heard by the state, unlike the powerfully organized body of millowners, the BMOA. The implicit blockage of millowners' interests came not from any actions engineered by the workforce itself, nor even, in this case, by governmental or extrinsic interests sympathetic to labour, but from a middling government servant who had nothing at all to do with the cause of labour, and simply wanted to milk the Act for what it was worth.

For the millowners, then, Partridge was potential nuisance value, not just in himself but also in his embodiment of some of the possibilities of the Act's perversion. For the Bombay government, he represented the danger of corruption, but also something more. He served as a reminder that, unless carefully controlled, the Factory Act could end up articulating hostility rather than harmony within the textile industry. Partridge's action could be explained away on the grounds of individual dishonesty. But what if it actually betokened a wider problem? What if, in the future, legitimate enforcements of the letter of the law carried similar threats to the interests of capitalists? Jacomb's

letter to the Bombay government articulates all these worries. He is at pains to emphasize the courtesy and understanding shown him by the owners of mills, to celebrate the friendship between state and capital that it represents. He takes note of Latimer's importance within 'the mercantile community'. A small irritant like this evokes the fear of an incipient breakdown in the structure of this friendship, this cordiality. And it is this breakdown that must be forestalled. Millowners *must* not be compelled to pay fees, this must remain optional, and this freedom is something the state has to guard. The Act has to work smoothly, and this is premised upon the maintenance of harmony between government officials and capitalists. The Act must not ruffle feathers overmuch.

Partridge responded to the government's demand for explanation in what officials considered a 'grasping' and inexcusable manner. He enclosed, in a letter to the Collector, support from the millowning community for his enterprise, in the form of a note from the secretary and manager of Greave Cotton Ltd, saying he'd be happy to comply with Partridge's 'very reasonable instructions'.[14] The surgeon admitted that he had 'made a mistake' in mentioning the fine prescribed for employment of underage children as Rs.500 rather than Rs.200, and attributed it to not having a copy of the Act. He made mention, however, of correspondence with other millowners, who had acceded to his request.[15] Partridge seemed blissfully unaware that there was anything illegal in his intent; on his terms, as he presented them, the demand for the payment of fees was perfectly within his rights, as compensation for the work of certification. Was this claim genuine, or was he simply trying to mask his own corruption? The latter seems more likely from the evidence, especially given Partridge's carefully made request that boys be sent to him in batches of not more than ten each, which would of course secure him the highest fee available, as spelt out in the government resolution. But beyond a point this does not matter. The basic issue at hand was this: a Presidency surgeon was, to all extents and purposes, taking the law into his own hands, and reformulating the letter of the law in practice. And this was having effects rippling off in uncharted directions.

[14] Letter from Secy and Manager, Greave Cotton Ltd., to Dr Partridge, 8 Sept 1881, MSA.
[15] Letter from Dr. Partridge to the Collector of Bombay, 10 Sept 1881, MSA.

A member of the Bombay Legislative Council, whose name is not clear from the documents (it is inscribed in a handwritten scrawl), clearly saw red. 'Dr Partridge's greedy letter is most improper and discreditable to him. He also interferes and blunders in matters with which he has nothing to do.'[16] Another note in the General Department's documentary traces is even more vitriolic. 'Dr Partridge's conduct seems so grasping that I would, unless his explanation places his conduct in a more favourable light, remove him from his post and place his services at the disposal of His Excellency the Commander in Chief for military duty.'[17] Strong passions have clearly been roused. The footnote to this memo is terser, but equally revealing: 'NB: An answer should at once be sent to Mr. Latimer.'[18] Damage control involved, above all, pacifying and reassuring the injured millowner.

While all this righteous indignation was being aired in the correspondence of the General Department, the good doctor dropped another bombshell, in the form of another letter to Jacomb, which the Collector forwarded for the government's perusal on 20 September.[19] The extent of his extortionist drive – as the government saw it – was more fully revealed. In this letter, he spoke of three exchanges he had had with millowners since his request for the mandatory payment of fees. The owners of the National Spinning and Weaving Co., and of the Jadhavji Raghuvji Spinning Mill had, he said, already sent boys up for examination. He also mentioned a letter from the secretary of the BMOA, who expressed his willingness to recommend children to him for examination, but protested that Rs.1 per head was excessive, and wanted to pay no more than 8 annas per head. The secretary also wished only to arrange for the examination of boys newly employed in the mill, and among these, only the boys considered of doubtful age by the Inspector.

[16] Memo from 'Hon'ble Member', 12 Sept 1881, MSA.
[17] Note in General Department files, 17 Sept 1881, MSA.
[18] Ibid.
[19] no.385, Bombay, 20 Sept 1881, MSA.

Partridge offered, in his letter, an account of his response to this suggestion: 'In reply I have told them, that of course, they can do what they like about sending or not sending the new hands, but that with regard to the new boys, I think that if I consent to the fee of 8 annas they ought to send up *all* the new boys.'[20] He went on to add: 'I think that they will consent to this my very moderate proposal. Otherwise, if they neglect to have the new boys examined, and should boys be found when the Inspector goes to the mill, below the age of 12 working fulltime, the fine should be inflicted.'[21] So at one level, Partridge was haggling with the millowner over the practice of certification, trying to persuade the latter to succumb to the arrangement that would be of most gain to him, Partridge. Obviously, if all the new boys were to be certified, it would represent a significant financial advance over what he could have made from the certification of only those boys declared doubtful by inspectors. Technically, of course, Partridge had no right to *demand* payment for certification at all. But clearly he reckoned otherwise. At the same time, Partridge was extending another threat: if millowners did not employ his services for all the children they employed, things would not go well with them. In this correspondence, slight though it is, at a certain level war is being declared. If the Bombay Government wanted the whole process of factory regulation and inspection to represent harmonious relations between millowners and the state, Partridge's invocation of the factory inspector in his letter, and the promise of punishment for transgression, articulates the spirit of the Act as it was originally conceived, as a threatening check upon the employment practices of capitalists.

This was clearly the last straw. Inside government circles, Partridge was repeatedly denounced as greedy and 'grasping'. A departmental submission declared that the new letter from Partridge 'is, in its nature, more objectionable than the first one.'[22] Two departmental resolutions were drafted to put an immediate end to the doctor's extortions. The Collector was instructed to conciliate Latimer

[20] Letter from Dr Partridge to the Collector, Sept 15, 1881, MSA.
[21] Ibid.
[22] Memo in G.D, 21 Sept 1881, MSA.

without delay, to assure him that 'Mr. Partridge had no authority to address to him the letter...that millowners are not bound to do anything not required of them by the Act and Rules under the Act, that the payment by them of any fees for certificates is entirely optional, and that the mention of such fees in a Resolution of Government was simply a suggestion thrown out for the convenience of millowners who may desire...to take larger precautions to ascertain the age of children.'[23] Anxiously, the resolution repeated time and again that Partridge's demands were entirely opposed to the spirit of the Act, and condemned the language of his letters, which 'appears to be carefully calculated to constrain millowners to pay him systematically the highest possible amount of fees'.[24] The hand of the law cracked down, and Partridge was instructed to state his monetary gains from these transactions he'd devised, and to immediately withdraw the letters he'd sent to millowners in his district. Another resolution, a week later, repeated the government's discomfiture with the surgeon's 'solicitation' and invoked again the spirit of the Act, condemning his violation of it.[25]

It was only now that the doctor fell into line and admitted the error of his ways. In a letter addressed to the Surgeon-General with the Government of Bombay, he apologized for his mistake in prescribing a fine of Rs.500, stating however his 'trust that it will not, for a moment, be imagined that the error was intentional.'[26] He protested, contrary to the evidence from his previous letters, that he had no intention of making millowners think that the payment of fees was compulsory, and that he had explained this to them in person frequently. Addressing finally the government's main worry, he wrote there was no reason to suppose any annoyance on the part of millowners, except of course in the case of Latimer. Millowners had been uniformly courteous to him. 'I have met with nothing but courtesy and good feeling from everyone with whom I have had anything to do as yet.'[27] This statement of cordiality seems to have been a necessary footnote to almost any official

[23] Resolution no.3122, G.D, Bombay Castle, 21 September 1881, MSA.
[24] Ibid.
[25] Resolution no.3223, G.D, Bombay Castle, 28 Sept 1881, MSA.
[26] Letter from Dr. Partridge to the Secretary to the Surgeon-General with the Government of Bombay, 24 Sept 1881, MSA.
[27] Ibid.

correspondence regarding millowners at this time, and this repetitiveness in itself is redolent of anxiety that things might be otherwise.

So far as the documents of the time go, there is no evidence of a revival of this issue. Partridge was rebuked, and it is not clear if he retained his job. He disappears from the records after the beginning of October. A final resolution from the General Department, composed in an obvious mood of relief, stated that the doctor's explanation 'cannot be deemed satisfactory', but agreed to shelve the matter. 'Government trust, however, that their views on the subject are now understood.'[28]

How might we read larger significations into this little contretemps? This narrative reveals, I would argue, the unfolding of certain constitutive tensions in the triangulated structure of industrial relations. The Factory Act had introduced an uncertainty in the relations between state, capital and labour. State and capital, through the previous decades of labour law across various sites of work in India, had been closely tied together, and the state had been wedded to the interests of capital. A host of pressures compelled, in 1881, the formulation of a law that potentially contained trajectories moving in the other direction, placing the state on the side of the labourer, as her protector and preserver from exploitation. Discursively, this was the intent of the Factory Act, watered down though it was by a series of acrimonious debates that seriously limited its scope. Practically, however, this posed certain problems, especially in a context like Bombay, where industrial capitalists seem to have been very prominent in the city elite, powerfully organized into the Bombay Millowners' Association, and backed by significant portions of the press. What documents of the period following the enactment of protective legislation reveal, above all, is a desire to preserve the cordiality of relations between state and capital.

[28] no. 3366, G.D, Bombay Castle, 8 October 1881, MSA.

But the Act represented a possibility that, at certain conjunctures, this friendship could break down. And these conjunctures did not have to be momentous and dramatic, they could emerge from minor issues. Where, after all, did Partridge's extortions come from? They were grounded simply in the attempt to assemble protective legislation for the factory worker into some sort of coherent administrative form, to give substance to the Act's demand for certification by setting up a structure of medical inspection and the certification of age. This was routine administration, and that is the whole point. For the tensions and worries I have described burst precisely from a routine, everyday administrative practice. While the Act operated, it was impossible to be fully secure about the relationship between state and millowner. Leaving the letter of the law as it was afforded no comfort, for a minor state official, a surgeon, could radically recompose its meaning without intending to, simply in the pursuit of personal gain. What was to prevent other kinds of challenges to the desired harmony of interests? So the government had to continually step in with resolutions and proclamations to work the Act away from its deployment against the interests of millowners. Law speaks in a forked tongue here: the interests and desires of those who operate it do not exhaust the possibilities of interpretation and deployment of the Act.

The rebukes administered to the errant doctor can be read as a strategy of containment. By reducing the case to a matter of individual corruption and deviance, some of the wider tensions produced by the existence of the Factory Act could be discursively occluded. But this was not, even at this stage, a complete closure. The body of official discourse also contains another fracture. And this derives from the position, within this discourse, of the one figure least invoked in this cluster of documents – the labourer.

The child labourer, the central focus not only of certification but, at this point, of all factory regulation, is tucked away in the margins of the departmental correspondence I have examined. He moves centrestage, however, at certain moments of pressure. The first of these is Partridge's initial

letter to Latimer, where he addresses the possibility that the amount payable by the millowner to him may well be deducted from the wages of working children, or from their parents, rather than paid from Latimer's own pocket. 'All I ask is that if it be decided that the parents are to pay the fee, the amount will be paid by *you*, and afterwards deducted from the boy's wages.'[29] Latimer mentioned this in *his* letter to the Collector, Jacomb, mentioning also that this imposed a heavy financial burden upon the children concerned.[30]

Subsequently, when he wrote to the General Department, Jacomb indicated his awareness of this possibility. He wrote that he 'fully shared the opinion of Mr. Latimer as to its hardship upon the young workers many of whom have had to submit to a reduction of wages through being put on short time consequent upon the introduction of the Act....I would beg to submit that, on every account, the Government may be moved to reconsider the question of fees chargeable to these poor little creatures, in view to these fees being placed in abeyance until definite arrangements are made.'[31] The Secretary of the General Department, in his letter to the Under-Secretary, added on to this another worry, '...the fees, though they may be paid by the manager in the first place, will be recovered from the pay of the children, which does not amount to more than Rs.3 or Rs.4 *per mensem...*'.[32]

Read in conjunction with the articulations of harmony between millowners and government elsewhere in these documents, these statements present an interesting modulation of official anxieties and preoccupations. First, the matter they mention clearly lies at the heart of the problem caused by the need to certify the age of children. If the objective of implementing the Act is to protect children, an abridgement of their wages cannot pass unnoticed. Hence the tone of worry and sympathy, and

[29] Letter from Dr Partridge to Secy of the Anglo-Indian Spinning and Manufacturing Company, Bombay, 1 Sept 1881, op.cit, MSA.
[30] Letter from Mr. Latimer to the Collector, op.cit., MSA.
[31] Collector's letter to General Department, no. 310, 6 Sept 1881, op.cit., MSA.
[32] Secy to Under Secy, 9 Sept 1881, MSA.

there is no reason to suppose that all of it is hypocritical or faked. The worry here clearly goes beyond the issue of Partridge's infringement, because it concerns, at its core, the possibility that any system that demands payment from the millowner would eventually squeeze the earnings of labourers.

For all of this, though, the worry about something much more abstract and nebulous – the cordiality of state-millowner relations – occupies an immeasurably greater space in official discussions than does the issue of the further reduction of children's earnings. The latter problem is mentioned delicately and reluctantly, then tossed aside without much ado. After the references I have just noted, there is no other mention made of this issue in the documents. At one level, this signifies that the state was very much more concerned about its relations with millowners than it was about the enforcement of a protective regime. But this is a fairly obvious point by now, barely worth noting. What is more interesting is the extent and depth of this weighting of preoccupations. The extortion of money from children by millowners is mentioned casually, without judgment passed or effort made to check this practice, almost as though it were a law of nature. Wages were notoriously absent from any of the provisions of the first Factory Act. There was clearly, in operation at this time, a sense that in certain spheres, particularly in the sphere of the payment of wages, the sovereignty of the industry, and within that of the millowner, was not something that could be touched by law or policy. Confronted with this problem, government officials recognized it, but not *as a problem*, something that had to be addressed by further regulative prescriptions. It was axiomatic that this was one aspect of industrial relations the state couldn't meddle in, and that was that.

But there is another dimension to this. Following the Act, the argumentative strategies of the government required that reference be made, however sparingly, to the interests of labourers. The moral legitimacy of the official attack upon Partridge could not derive solely from an invocation of the rights of millowners. I would tentatively suggest that the trajectory of official response to

infringements of the Act *had* to move in two directions at once, given the government's new identity as the protector of factory labour. The interests of the millowning community were supreme, but it also had to be demonstrated that, simultaneously, Partridge's demands constituted an unwarrantable attack upon the livelihood of child workers. And discursively, then, the two – millowning and labouring interests – were conjoined. An attack upon the interests of millowners was equally an attack upon the interests of workers, for what hurt the industry hurt both equally. This replicated, interestingly enough, both the structure of argument used by millowners when they opposed factory legislation in the first place (legislation would hurt employment prospects) and that used by upholders of legislation (protection was actually in the interests of capitalists, since it delivered a content and efficient workforce into their supervision). This was a much more satisfactory way of addressing the issues at hand, for the alternative would have been unthinkable at this stage – to admit constitutive antagonisms in the relationship between capital and labour. A fiction of harmony was thus produced, and continually re-staged within official discourse. However, as we shall see, it was an uncomfortable fiction to have to maintain.

Enforcing Law: Inspectors Encounter Millowners

As in England, at the core of the implementation of the Factory Act lay the system of factory inspection that was described in the enactment. It was the appointment of inspectors to scrutinize factories for evidence of maltreatment of labourers that most irked millowners. Under the Act, millowners were placed under several obligations. They had to make sure the children they employed were over seven, and that workers below twelve were employed on half-time (not more than nine hours a day). To this end, they had to maintain registers of children employed by them. They were accountable for the reporting of accidents, and for safety conditions in mills. They were obliged to put up notices of working hours and times for lunch breaks in both English and the vernacular. Theoretically, all of this was ensured by a regime of factory inspection. Factory inspectors, under the

Act, had the right to enter the premises at any time they wished. They could ask millowners to produce the registers where they listed the names and ages of children, they could ask to see the certificates of age the children were supposed to carry.

Factory inspection introduced a new force into the matrix of industrial relations. Inspectors were invested with the power to scrutinize, instruct, judge, penalize and rebuke millowners. The latter experienced this as an unwarranted threat to their autonomy, and their protests against this were encased in a discourse of the autonomy of 'industry', a reified construction that occluded hierarchies and differences as it formulated a monolithic view of 'industrial interests', implicitly equated with the interests of capital. Millowners and inspectors, increasingly, confronted one another with suspicion and reserve, as potential if not actual adversaries. Theirs was a tense relationship from the beginning, for each step the inspector took was an intrusion upon the principle that millowners were entitled to run their enterprises as they chose. External intervention, from the very beginning, was hotly contested by capitalists.

Factory legislation was a subject of scrutiny in the very first annual report of the Bombay Millowners' Association in 1875. The BMOA was set up to organize the interests of capitalists into a coherent whole, and also to produce a sustained evaluation and contestation of governmental policies that impinged upon the security and future of the Bombay textile industry. The main object of the millowners' critique in the first report was the Indian Tariff Act of August 1875, which imposed a 5% *ad valorem* duty on the import of raw cotton into India.[33] But there were already glimmerings of British interest in factory conditions in India, and even at this early stage the BMOA took note of this. 'Legislative interference of any kind would, your Committee consider, be most injurious to the

[33] *Reports of the Bombay Millowners' Association for the Years 1875 and 1875-76*, Bombay, 1876, publication no.10382, MSA, p.5.

manufacturing interests of India, and, if resorted to, will secure from them their strongest opposition.'[34]

Appended to the same document is a lengthy address of the BMOA to Sir Louis Mallet, C.B., who had undertaken, on his first visit to Bombay, a tour of cotton spinning and weaving factories.[35] That he should have done so was clearly sensed as an affront to the liberty of millowners. In their address it is testily inscribed, 'no intimation of your intended visit of inspection was given to the owners of the mills....consequently no preparations were made by them for your reception, or to shew the mills in any other than their ordinary working state.'[36] It is as though the inspection were some kind of ambush, which in a sense perhaps it was. The idea that the state could arrogate to itself the authority to inspect and judge the labour conditions in a mill in its 'ordinary working state' was clearly a matter of some alarm for millowners. The resentment is articulated even more clearly in the mention the millowners' letter to Mallet makes of a certain John Robertson, who was deputed by English manufacturers (in the BMOA's version of things, at any rate) to examine Bombay mills, and conducted his investigations 'with such secrecy, that, until a few weeks ago, when it became known that he had issued a report, the object of his mission to India had never been suspected.'[37]

As early as 1875, then, there is growing suspicion among Bombay millowners about the intentions of the state. This of course had multiple contexts – the major one, at this stage, was undoubtedly the tariff policy of the colonial state, aimed at undermining the profits of Indian industry and thereby forestalling competition. But there was also a growing strain of argument that linked pressures for factory regulation squarely to the grand design of crippling Indian industry. Pressures emanating elsewhere could, in this argumentative strategy, be read off as masks, excuses deployed to disguise the true motives behind factory regulation. The possibility of factory regulation, in the wake of

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[34] Ibid, pp.6-7.
[35] Ibid, Appendix B.
[36] ibid, p.52.
[37] ibid, p.55.

multiple and growing pressures, was indeed probably one of the factors that led to the formation of the BMOA. The understanding here is clear: in order to forestall the possibility of discriminatory state policy on the one hand, and protective legislation for labourers on the other, it is necessary for capital to be organized. Millowners need to be gathered into a body that can speak with one voice.

These worries recurred in the years between 1875 and the enactment of protective legislation in 1881, and reached a crescendo soon after the passing of the Act. The Bombay government, the Government of India, and the India Office started, soon after its passage, to communicate with one another about the desirability of securing the temporary services of a factory inspector from England, in an advisory capacity, to help clarify the ways in which the Factory Act should work.[38] These consultations concerned, primarily, the question of whether a lower-level or a higher-level inspector was needed for the kinds of factories that existed in Bombay. The Bombay government eventually decided in favour of the second option, given that only one class of industrial works – cotton textiles – was covered by the Factory Act.[39]

These consultations began almost immediately after the Act was passed, and soon news of this reached the BMOA. John Gordon, secretary of the Association, sent a letter to the Secretary to the Bombay Government, asking if rumours that a British factory inspector was being invited to India were true.[40] The Secretary responded immediately, in the affirmative, with the reassurance that this inspector would only be appointed for a short period, and his purpose was to train officials for the job of inspection in India.[41] Gordon, in his reply, raised strong objections: 'the Committee wish to protest…against a proposal which appears to them to be unnecessary, and likely, through prejudice and ignorance on the part of the officer employed, to lead to harsh and needless interference.'[42] The

[38] G.D, 1881, no.328, Part I, vol.3, MSA.
[39] no.2709, Bombay Castle, 18 August 1881, G.D., MSA.
[40] John Gordon, Secy, BMOA, to Secy to Govt of Bombay, G.D, 25 May 1881, MSA.
[41] Secy to Govt to John Gordon, G.D., 25 May 1881, MSA
[42] From Secy, BMOA, to Under Secy of Govt, G.D, Bombay, 18 June 1881, MSA.

objection to outside interference was, then, particularly pronounced when it came to the possibility of scrutiny from the imperial center, probably because of the far stricter regulations enjoined by English factory law. Further, a staple argument of the BMOA, since its inception, had been that conditions of factories in England and in India were fundamentally different, and laws that applied in one situation could not apply in another. Therefore, Gordon reiterated, the employment of an *English* officer, given that the 'difference in climate, of the habits and customs of the operatives, and of their system of work are such as would render the employment of an officer of the Factory Department in England unsuitable to India, and would prove injurious to the legitimate operations of Indian manufacturing interests.'[43]

This argument from absolute cultural difference was one that millowners were fond of using. The lives and work of Indian factory operatives, it was argued in effect, were unintelligible in any terms that would make sense to alien observers. Codes that were axiomatic in England in the industrial relationship could not be applied here. The possibility of a trained inspector from England examining mill conditions, and actually being listened to with respect and care by the government, frightened the BMOA, for it cut the ground from beneath their feet. If it was to emerge from the inspector's examination – as indeed it did, as we shall see – that factory workers in India were less content or enjoyed fewer human entitlements than English workers, the basis of the millowners' argument would be destabilized.

And all of this would violate the most preciously guarded doctrine of Indian industrial relations as construed by millowners – their sovereignty within the structure of industry. The 'industry' constituted something over and above the interests of those employed in it, and this something was embodied in the autonomy and initiative of the capitalist. Integral to this was the project of making actual work invisible to the official eye, invulnerable by right to state interference and regulation.

[43] Ibid.

Having a Factory Act was bad enough, despite the mildness of the legislation, but it was infinitely worse to have one's industrial practices subjected to the scrutiny of someone alien, who might 'not understand'. It was necessary to preserve the factory as a space of millowners' sovereignty, and this purpose was undermined by the prospect of being visited by an inspector who might well call for further regulation.

At the base of all this is a worry that a certain hostility to millowners' interests on the part of the State might be structurally embedded in legislation. It is important to note that this is conceptually different from the subjective inclinations of government officials, most of whom, as the Partridge affair demonstrates, were above all concerned with the preservation of cordiality between state and capital, just as much as millowners were. But the very existence of a law designed to protect factory workers drove a wedge in this desire. The Act called a certain administrative structure into being, and this structure was always potentially a threat to the sovereignty and autonomy of millowners. Later, when a more organized workforce emerged, the world of inspectors, courts, and legislating bodies could also, from time to time, constitute a space where workers could put forward claims.

The modalities of factory regulation began to be worked out in March and April 1881, before the Act came into force, and deliberations continued through the rest of the year. H.E.Jacomb, the Collector of Bombay, whom we encountered during the Partridge case, was in charge of formal factory inspection in Bombay city, in line with the resolutions formulated by the government shortly after the passage of the Act.[44] Equally important, though, was William Moylan, the Inspector of Boilers and Prime Movers, who was given the job of inspecting machinery in mills for possibilities of physical danger to workmen.

[44] Resolution no. 1344, Bombay Castle, 26 April 1881,G.D., 1881, no.328, Part I, vol.3, MSA.

Despite the ineffectuality of the system of inspection the Factory Act instituted, inspectors and millowners confronted one another as potential adversaries. This was not something that happened naturally. Antagonism was, of course, inscribed into the very structure of the relationship between capital and labour in the mills, and as the logic of this antagonism revealed itself through investigations, factory inspectors began to constitute a force for potential 'disruption' and a threat to the interests and profits of millowners. But this is not the way in which most government officials – at least, those who have left most documentary traces behind – necessarily, or even usually, *wanted* to conceive the function of inspection. In my examination of the Partridge controversy, I have already alluded to the explicit desire to imagine industrial harmony and partnership, an imaginary in which the state acted in the best interests of the industry.

Soon after the passage of the Act, the Officiating Secretary to the Government of India, in a letter to the government of Bombay, explaining the principles involved in the formulation of factory law, noted the limited nature of the protection that had been offered (the primary limitation being its restriction to child labour). He was at pains to stress the moderacy of the Act, and the fact that it paid very careful regard to the interests of millowners and commercial associations who had memorialized the government in opposition to legislation.[45] This care was, indeed, evident, both in the process of drafting and in the eventual wording of the Act. Whatever the nature of the pressures leading to legislation in 1881, there can be little doubt that the Act that was eventually placed on the statue books was cautious, weak, and redolent of the need to conciliate the powerful interests of organized capital. However, the very necessity of *administering* the new Act brought into being forces that were, to an extent, autonomous of the individual and collective desires of those who formulated, drafted, and even executed state policy. Gradually, as the provisions of the Act came to be implemented, even in such watered-down form, tensions and hostilities in varying degrees were produced. These were adumbrated in the practice of inspection.

[45] From the Hon'ble C.Grant, C.S., Offg. Secy. to GoI, to Secy. to GoB, Simla, May 1881 (Home, Revenue and Agricultural Department), G.D, 1881, no.328, Part I, vol.3, MSA.

The reports sent in by factory inspectors in 1881 and much of 1882 were fragmentary and incomplete, often researched and composed without sufficient attention to the provisions of the Act. Officials in the General Department are found memorializing one another in this period constantly, with a view to making the working of the Act more efficient, formulating ways of making inspection both more regular and more efficient. A frequent source of complaint, for instance, was the ambiguous nature of the precise powers enjoyed by inspectors – they could draw attention to abuses of factory rules, and they could recommend penalties, but their capacity to enforce the law was limited. Administrative difficulties, and the measures adopted to deal with them, often offer rich evidence of the way thinking about factory law evolved. The recognition and attempts to resolve apparently purely 'administrative' problems actually extended and produced ways of conceiving legislation and policy, the status of millowners and the limits to their autonomy, and clarified the meanings of 'protection'.

Early reports on Bombay factories served, above all, to make visible many practices and relationships that were previously sealed off from the public and the official gaze. Inspections brought to light the employment practices of millowners, and conditions within mills were exposed to scrutiny. The pressures produced by this could work in many different ways, the crucial variable being the choices made by individual millowners. Disaggregating the ways in which they responded to some of the specific provisions of regulation produces a variegated picture. Considering some of these responses, and the tensions they set in motion, may be of some utility here.

On the whole, it appears that most millowners quickly complied with the compulsion to make knowledge about the hours of employment and interval times for children in their mills available to

the state.[46] This initially took the form of assurances by millowners, but was given more concrete shape from October onwards, as notices mentioning these fixed times began to be put up in factories in the English and the vernacular.[47] Weekly holidays for children were also instituted officially, as opposed to the ad hoc grants of holidays that had been customary prior to legislation. A certain accountability to the workforce, then, was enjoined by law. Workers were, by this provision, entitled to *know* the terms of their service, in the form of rules that afforded them some protection. And this could be enforced by inspectors who would take note of whether notices were put up or not. This was, of course, more potential than actual entitlement. But it could have unexpected ripple effects. For instance, when Lokhande's Millhands' Association launched the first public campaign on behalf of the Bombay industrial workforce in 1884, its prime demand – eventually achieved – was the institution of a weekly holiday for adult as well as child labourers, generalizable across mills. This demand – a larger one than it appears at first – had a space into which it could insert itself, the space opened up by the Factory Act. And perhaps more crucially, the existence of a regular structure of state scrutiny made it possible to imagine the successful implementation of rules like this. The regularization of notices of times of work and rest in mills was critical to the accomplishment of this – it turned the grudging consent of the millowner to make a concession to his workforce into an entitlement that workers and their representatives could potentially lay claim to.

Millowners did not capitulate so easily on other fronts, though, and in certain cases they had recourse to measures that undermined the 'protective' capacity of the Act. The most common of these had to do with their employment of children after the Act. In Jacomb's first report on the working of the Act, in October 1881, 4309 children in Bombay mills were noted to have been passed as of full working age, and 15 children were prohibited from working, being declared under seven years of age.

[46] From the Collector of Bombay to Secy. to Govt, of Bombay G.D: tabulated statement of the times fixed by owners and managers of factories and heads of departments for intervals of food and rest, no.109, Bombay, 15 June 1881, MSA.

[47] Notices sent by Alliance Cotton Manufacturing Co., Oriental Spinning and Weaving Co., Jivraj Balloo Spinning and Weaving Co. Ltd., and Mahalakshmi Spinning and Weaving Co., Sept. and Oct. 1881, in G.D., 1881, no.328, Part I, vol.3, MSA.

This left a vast number of children in an uncomfortable shadow zone. In anticipation of the Act coming into force, about 480 were discharged, and 154 children who were passed for half time work, being between seven and twelve years of age, were also dismissed.[48] How are we to read these kinds of consequences of the Act? Not without ambiguity, from any point of view. The enforcement of the rules about working age prevented the employment of many children who were practically infants, and perhaps delivered them from the necessity of working in stifled and poisonous atmospheres, marked by the danger of swallowing particles of cotton, always a possibility for children in mills.[49] However, this also probably hastened the absorption of many of these children into other, less formalized occupations, equally brutal if not more so, and outside the purview of legislation. In the context of the harsh economic choices working-class families racked by poverty had to make, this was almost inevitable. As contemporary observers and officials pointed out, the limited scope of the Act, covering as it did only a certain kind of workplace, and that too with the proviso that it employ more than 100 people, crippled the possibility of genuinely effective intervention.

It is not in universal beneficience to factory children that we must seek the real significance of the provisions of factory law. Children probably experienced the Act in multiple and contradictory ways: as a folding up of employment opportunities, as a welcome regularization of work hours, as a nuisance that could easily be ignored. But they also constituted a field of tussle between millowners and inspectors, where the discursive inflections of confrontation between the two I have noted entered concrete practice. This is evident from many reports of the time. Inspectors often picked out children at random while inspecting the machinery in factories, during surprise visits that virtually constituted raids, and asked them to produce certificates of age. On other occasions, they conducted unannounced visits on Sundays to check if children were being employed.[50] But on many of these occasions, as Jacomb complained, verification was very difficult, since the inspector was 'required to

[48] from Collector of Bombay to Secy to Govt., G.D., Bombay, no. 431, 4 Oct 1881, MSA.
[49] Ibid.
[50] from Collector to Acting Secy. to Govt., no.40, 17 March 1882, in G.D, vol.1, 1882, MSA.

have seen a particular child actually at work, and to prove that the child did not palm himself off with a false story for the sake of employment or that he did not come with food for somebody else or some other ingenious excuse difficult to refute after the occasion.'[51]

These were, indeed, frequent practices, and Jacomb was not the only one to draw attention to them. The Factory Act could on occasion work itself out in very complex ways, then, in this case manufacturing a temporary alliance between the interests of millowners and the children they exploited, the latter desperate enough for work to adopt strategies the former no doubt often had a role in devising. They could, besides the methods described by Jacomb, also carry false certificates of age, borrowing them off already inspected – and legitimately 'of age' – children. When Meade-King, the factory inspector from England, visited mills, he often found children running out of the workplace as he entered it. As Emma Alexander points out, for these children, the line between protection and threat, as they perceived it, could be a thin one.[52] For factory inspectors, the response to such a situation was usually to demand a tightening of the regime of inspection. Jacomb, in his correspondence with the General Department in 1882, is often heard plaintively making the plea for assistance in his duties, and complaining that the abuses the Act is subjected to by millowners cannot be checked without greater surveillance.

Pressures from other quarters were also mounting. The *Bombay Chronicle* of 15 January 1882 charged the government with inadequate attention to the implementation of factory regulation, observing that managers did not really give children the holidays they claimed to, and were employing them on the sly.[53] Jacomb was hauled up mildly for this,[54] and responded by describing the evasions of the Act by

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[51] Ibid.
[52] Emma Alexander, 'Labour Regulation or Protection for the Factories Child, Bombay, 1881-1920', paper presented at Fourth International Labour History Conference, 18-20 March 2004, NOIDA (India).
[53] Extract from *Report on Native Newspapers, Bombay,* for the week ending 21 Jan 1882, quoted in Memo, G.D, 5 Feb 1882, MSA.
[54] Memo no. 426 from Under-Secy. to GoB, 7 Feb 1882, MSA.

millowners, and the difficulty of proving their guilt, in some detail.[55] He mentioned having prosecuted three cases against millowners in the Police Court, against the breach of the holiday norm for children, with the result that one offender was fined Rs.20, another was acquitted, and the third case was withdrawn by Jacomb himself, clearly having not gone well for him.[56] It is difficult to believe, reading such correspondence, that this was the same Collector who had praised the millowning community so fulsomely, and expressed such indignation at Partridge's extortions from millowners, a few months prior to this.

But it was, and thereby hangs a tale. It appears – and this is for the present merely an educated guess – that a few months after the passage of the Act, after the Partridge affair had compelled the government to handle millowners with kid gloves, pressures were emanating from parts of the educated public sphere in Bombay, forcing the government to consider the possibility of stricter implementation. Some sections of the press – the *Bombay Chronicle* article cited above, for instance – were taking up the issue. So too was the Parsi social reformer Sorabji Shahpurji Bengali, one of the most important sources of pressure behind the formulation of factory law in the first place. Bengali suggested to Jacomb, sometime in late 1881, that detectives be employed for the purposes of the Act.[57] At the time the Collector pooh-poohed the suggestion ('I hardly think the necessity for such a step has as yet arisen'[58]), but a few months later, when he unsuccessfully implored the government for more assistance with the work of inspection, he may have regretted his hasty dismissal of the idea.

There was one aspect of factory law that was not exclusively focused on children, and this was industrial safety. In the months following the Act of 1881, the production of knowledge about

[55] From Collector to Secy., GoB, 17 March 1882, op.cit., MSA.
[56] ibid.
[57] no.421 of 1881, op.cit, MSA.
[58] It was decided, after consultation in the General Department, to not take any action in the matter of appointing a full-time assistant for Jacomb till Meade-King reached Bombay.

working conditions in mills came to centre heavily around two issues – the exploitation of child labour, and the dangers posed by machinery. But children were, in many ways, slippery. Their ages were a mystery much of the time, they were human and therefore mobile, they darted through doors and openings in mills and were difficult to pin down, they could exchange certificates and fake identity. Machinery, on the other hand, evaded nothing, there was nothing ephemeral about it. Inspectors' reports, therefore, tend to be much sounder on the issue of industrial safety than on concrete provisions for the protection of children. Further, and crucially, the preoccupation with the fencing and safety of machines marked a broadening of the discursive horizon of the Factory Act, since it invoked the adult labourer, a figure absent from most other dimensions of protective factory legislation. The adult worker's vulnerabilities were tied to the threat of universal physical danger contained in machinery, while the vulnerability of children had been viewed as a function of their youth. The regulation of machinery, then, marked a move towards legally conceptualizing workers as universally bearing the burden of danger.

Equally critical was the relationship between worker and machine conceptualized in both the legislation of 1881 and in the rules framed under the Act in Bombay. Machinery is held to constitute a fundamental threat to the body of the labourer, against which he (more occasionally, she) is entitled to some degree of protection. This marked, needless to say, a radical break with the pre-legislation industrial regime, where, again, matters like this were always dependent, for their resolution, on that rare commodity, the willingness of the millowner to introduce protection. Theoretically, now, the state withdrew this absolute power from millowners, giving itself the right to decide what constituted proper conditions of machinery. Treading on this aspect of the sovereign power of the millowner, however, was not easy, because here there were a range of strategies that could be mobilized against any attempt to tamper with the physical infrastructure of mills.

Under the Factory Act, it was mandatory to keep certain specified portions of the machinery securely fenced: any 'fly-wheel directly connected with steam-engine, or water-wheel, or any part thereof, or other mechanical power in a factory....every hoist or teagle near which any person may pass or be employed....other dangerous parts of machinery'.[59] This was a vague definition, both open to subversion and broad enough to be open to further expansion. In September, the Bombay government passed rules that defined safety standards more rigorously. However, this still fell short of a full technical definition of safety, and matters were largely left to the discretion of inspectors. It was specified, for instance, that each part of the mill-gearing 'shall be securely fenced in such manner as the Inspector considers sufficient or in such position or of such construction as to be equally safe to every person employed in the factory as it would if it were securely fenced.'[60] The inspector was equipped with the power to furnish occupiers of mills with orders stating what safety measures needed to be taken, and to initiate prosecution if these orders were flouted.[61] Accidents of a 'not trifling character' were to be reported within an hour of occurrence, and a notice was to be sent to the nearest police station.[62]

As the inspections of factories began, vaguely worded resolutions about 'safety' came to acquire a greater specificity and concreteness. The earliest detailed report on the conditions of machinery in Bombay mills was written by W.Moylan, who assisted Jacomb in his inspections. He had served for a long while as the Chief Inspector of Boilers and Prime Movers under the Boiler Inspection Act of 1873, and thus was considered to have sufficient expertise to spell out what was lacking in Bombay mills and what needed to be done. The memorandum he submitted to the General Department in October 1881 contained a carefully disaggregated picture of the conditions of machinery, with separate sections for the details of the situation in blow rooms, carding rooms, and mule and throstle

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[59] The Indian Factories Act, 1881 (Act XV of 1881), Appendix II in J.C. Kydd: *A History of Factory Legislation in India*, Calcutta 1920.
[60] No. 2972, G.D, Bombay Castle, 10 Sept 1881, MSA.
[61] Ibid.
[62] ibid.

rooms. Moylan's report makes apparent the kinds of strategies millowners were deploying at the point of production to minimize costs to themselves. Chief among these was the placing of machines extremely close to one another, especially in the carding rooms and the mule and throstle rooms. Workers had to be extremely careful, therefore, to avoid fatal contact with the driving straps and head gear in motion.[63] Millowners protested against injunctions to move machines further away from one another, on the grounds that 'some of them would necessarily be thrown out of business, in order to sustain the desired room.'[64] Moylan seems to have been favourably impressed by this claim, and conceded that spacing could not be controlled beyond a point.

As further reports came in from elsewhere in the Presidency, the problem of fencing machinery seems to have grown in perceived magnitude. The Acting Collector of Kaira (present-day Kheda) , one J.H. Grant, complained, after his visit to the Nariad Mills, that conditions on the work-floor were so bad that 'I do not think I would be able to walk about it for two days in boots or shoes without a fall.'[65] This was a particularly notorious mill, its workers, including some of its child labourers, frequently entering hospital with scalp wounds, abrasions, incisions caused by faulty machinery.[66] There was a limit to the effectiveness of inspection in places like this, far from Bombay city. The Acting Collector, confessing his lack of expertise, called for the assistance of Moylan with the Kaira inspections, asking that the millowner be ready to defray the latter's expenses for the visit. The millowner flatly refused to do this. Similar stories can be told about other mills in Kaira district. In a factory at Broach, there were absolutely no safety precautions, despite the Act: 'the slightest jostle or false step might lead to a fatal accident.'[67]

[63] Memorandum regarding the fencing of machinery, submitted by Mr Moylan, G.D, Bombay, 4 October 1881, MSA.
[64] Ibid.
[65] no.4691, 12 December 1881, from J.H. Grant, Esq., Acting Collector of Kaira, to G.A. Sheppard, Esq., Commissioner, Northern Division, G.D, 1882, vol.1, MSA.
[66] List of accidents in Nariad Mill, 11 Dec 1881, G.D., 1882, vol.1, MSA.
[67] no. 914, Kaira, G.D, 31 Oct 1881, MSA.

At the Manohardas Harakchand Spinning Mill, also in Kaira, a mill that shall play an important role in the next chapter, it was found that accidents were not being reported in accordance with the rules. Grant's report indirectly alludes to one of the sources of the difficulty faced in actually implementing protective measures. 'Two accidents were informally reported, but one did not clearly state the nature of the accident. The dispensary books show *three* accidents treated during the quarter, but, as the third person injured would, no doubt, deny that he was injured by machinery, it would be useless to follow this up.'[68] This hints at a structure of power relations in the mill where, in order to keep his job, it was necessary for the injured worker to deny he was hurt by faulty machinery.

Despite the conciliatory efforts of government, then, and despite the weakness of the Act, the way a significant section of the millowning community flouted factory law was becoming an increasing source of worry. In matters of regulation, it seemed, given the entrenched nature of millowner sovereignty, it was impossible to go very far. On the other hand, there were new pressures emerging, most significantly from within the press and from philanthropists and reformers – Bengali, and later Lokhande – that made it difficult to ignore these violations of law. The effort to introduce some of the Act's provisions reasonably efficiently had made a range of forms of exploitation visible, and parts of 'the public' were reacting with indignation. Further, of course, the logic of government was partially autonomous of the constellation of 'interests' surrounding it. The production of an administrative structure designed to execute factory law brought new forces within play, as, contrary to the hopes of officials, attempts to implement the new rules, however weak, still seemed unacceptable to so many millowners. The strength of organized capital, itself increasingly and openly hostile to the idea of any kind of regulation of its operations, was a source of anxiety. The belief that the Act would fundamentally change nothing and not disturb the millowner-state equation was proving unfounded. A certain relation of confrontation, still mild, still compromised and undercut hugely by shared ground (wealthy millowners and policy-makers interacted, they moved in the same

[68] From J.H. Grant, Esq., District Magistrate and ex officio Inspector of Factories, Kaira, to G.A. Sheppard, Esq., Commissioner, Northern Division, 10 Jan 1882, MSA.

social circles, they shared responsibilities in the running of Bombay), but nevertheless discernible, was emerging.

Meade-King Investigates

The arrival of W.O. Meade-King, a Scottish factory inspector practicing his craft in England, to help establish a groundwork of principles for factory regulation, came from the beginning of 1882 to be the major preoccupation of officials concerned with factory regulation. Meade-King's visit was expected to be crucial to the construction of a regulative framework for factories in a more concrete form than that in existence at present.

To put it bluntly, Meade-King's visit was considered to be of prime importance because of his experience as an *English* factory inspector. For proponents and adversaries of legislation alike, the opinion of an inspector from the imperial metropolis was seen as critical to the advancement or restraint of factory law in India. From its inception in the 1870s, debate around the issue of protective labour legislation in Indian mills had been deeply marked by the British experience of the same. This experience went back a long time, to the 1820s and 1830s. The intervening decades had added depth and power to the systems of regulation and protection for factory labourers in English law, consolidated in part by the power of the working-class presence. The 1870s were a seminal decade for the reformulation of English labour law, a decade when its definitions of protection were expanded significantly, entitlements of new sorts came to be enshrined in the statute books as well in the common law courts, and punitive legislation against breaches of contract by wage-labourers were finally brought to an end, with the excision of master-servant law.[69] English law was seen as exemplary by votaries of factory regulation in India, a perception not fully reducible to subservience to colonial mastery. The scope of the law seemed to be precisely defined in legislative enactments like

[69] For a pathbreaking account of the significance of this, see Robert Steinfeld, *Coercion, Contract and Free Labour in the Nineteenth Century*, Cambridge, 2001.

those of 1874 and 1878, in contrast to the many ambiguities and loopholes in Indian factory law. Further, naturally, the scope of English factory regulation was far greater.

For colonial officials, then, it was seen as necessary to suspend definitive judgments about the precise principles of factory legislation till Meade-King, a middle-level inspector from Lancashire, had considered conditions in Bombay mills. It was this that worried millowners greatly. One of their major arguments against factory legislation had been that, unlike in England, in India there was no real ground for regulating work conditions in mills, since mill-workers were essentially content with their lot, and the difference in climate – a favourite hobby-horse of many millowners – between India and England meant that *laissez-faire* conditions in Indian mills caused much less damage to factory operatives than they did in England. From this, they frequently went on to argue that no Englishman, habituated to observing conditions in English mills, could comprehend the nature of work-floor relations in Indian ones. The intervention of a foreign inspector seemed to confirm their fears that their testimonies and arguments now possessed less force in the formulation of state policy and attitudes than they had earlier, and this, of course, was linked to the perennial bogey of Lancashire's perennial evil design. In immediate practical terms, there was the fear that Meade-King, trained in the observation of English mill conditions, would be inclined to judge Indian mills harshly, and this in turn might have a spiral effect upon the regulatory practices of the colonial state.

Meade-King's visit changed certain things fundamentally. It offered colonial officials and supporters of factory legislation a body of knowledge (produced by his detailed and painstaking investigations) and arguments about factory regulation that could be deployed when inspectors were forced to confront millowners' deflections of the law. Further, his opinions came stamped with the authority of experience, expertise, and also, we must not forget, of metropolitan mastery. To put this in practical terms, Meade-King came to India as an observer from the colonial metropolis, and in this capacity enjoyed a certain judicial prestige as arbiter of right and wrong in factory practice. This was

not a prestige that officials swamped in the pressures and crises of actual governance could command, despite the much greater executive power at their disposal. Meade-King seems to have come marked by a certain legitimacy that flowed from his location in metropolitan England.

This was not embodied, however, in simple monologic acts of power, in injunctions that produced new modes of functioning. It was discursively modulated in more interesting and complicated ways. Most of all, Meade-King represented a frontal assault on the principle of the sovereignty of millowners in industry. If the state chose an external observer as arbitrator, which in effect they were doing, then the ground of legitimate power was shifting from millowners to the state.[70] The most interesting thing about this process is that millowners seemed to realize it. Most millowners went out of their way to please Meade-King; like Jacomb during the Partridge affair, he spoke approvingly of their courtesy and helpfulness. Simultaneously, though, the English inspector was emerging as a court of appeal, deployable by officials pressing for an extension of the Act, but also by millowners who sought to limit its provisions and keep it within its current manageable limits.

The very first incident that involved Meade-King's adjudication demonstrates his importance as a court of appeal for both the agents of the state and for millowners. In a case that will be studied in more detail in the following chapter, Meade-King ruled against an order issued by the Inspector of Factories in Thana, to the effect that a millowner in Coorla had to take certain measures to ensure a minimal level of spacing between machines in his factory. This was an order based on Moylan's observations about factory safety, mentioned in the previous section. The occupier in question, a C.E. Wilkinson, managed to mobilize a considerable section of the Bombay millowning community behind him in an appeal he made to Meade-King against this order, in April 1882.

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[70] *Legitimate* power, it must be noted: in practical terms, of course, the power of millowners remained very much greater, and was continue to remain so.

The trajectory of this case is revealing, both for what it tells us about Meade-King's status as privileged observer and arbiter, and for the light it throws on the evolution of the confrontation between millowners and inspectors. This confrontation was played out, now, in the form of appeals made to Meade-King by both Moylan, who set forth his arguments for suggesting these precautionary measures for machinery in the first place, and by Wilkinson. Wilkinson's response was remarkable. Sensing, clearly, an opportunity to close off one avenue for the advance of protective legislation, he put everything into winning this battle. In the space of less than two months, Wilkinson collected signatures, letters, and detailed papers of opinion from the millowning community to buttress his case. The list of names and identities mobilized by him reads like a virtual who's who of powerful people in industry in Bombay. The Secretary of the BMOA, the mill directors of the Framji Petit Spinning and Weaving Company, the managers of, among others, the Sassoon Mills, the Hindustan Mills, and the Morarji Gokuldass Mills, were only some of the people mobilized in this cause.[71] This is evidence of frenetic activity, and organization on an immense scale within the millowners' community. In May, Meade-King wrote a long and considered letter on the subject to the General Department.[72] Clearly impressed by the strength and expertise of the body of opinion marshalled by Wilkinson, which outmatched the argumentative skills of Moylan, he came down heavily on the millowners' side.

Clearly, Meade-King's arrival was seen not only as a threat, but also as an opportunity for millowners to press the justice of their claims upon him, an initiative flowing perhaps partly from a respect for his position, but also probably from a canny sense of the importance of his word. The presence of a super-inspector, as it were, became an opportunity for capitalists to strike a small but decisive blow against some of the intrusions on their sovereignty. They seized this opportunity, and, as matters turned out, with success.[73] Soon enough, the Commissioner of the Northern Division fell into line

[71] Documents cited by Mr Wilkinson in his letter to G.D, 16 May 1882, MSA.
[72] No.13, 22 May 1882, op.cit, MSA.
[73] ibid.

with this recommendation, and the order issued by the Thana Inspector was revoked.[74] Several officials were relieved by this decision, which seemed to prove that millowners and the state could work harmoniously together after all. Meade-King came in for a warm round of applause for having been able to 'ease the operation of the Act in the case of some mill-owners'.[75]

Certain anxieties were deferred and softened, for the moment at least. Meade-King's powers of judgment seemed unquestionable, he clearly was not 'biased' against millowners, and his comments seemed to be generally thoughtful and judicious. A decision such as this conferred immense power and legitimacy upon the opinion of someone who, after all, had no official authority to do anything but instruct and advise. The millowners carried the day, triumphantly, for they seemed to have beaten the system of inspection on its own grounds. The power of organized capital – even in a body as fractious and disunited as the BMOA was[76] – clearly operated at the intellectual as well as the executive level. Millowners, if they could organize themselves around a particular issue, were clearly a force to be reckoned with, collectively.

Yet Meade-King's growing legitimacy, in the slightly longer run, did not tilt the trajectory of the millowner-inspector confrontation in favour of the former, despite significant concessions like the decision mentioned above. Eventually, after conducting his tours around Bombay city and the Presidency (he also visited Madras), and drawing upon his experience in English mills, Meade-King formulated suggestions and arguments that were not only harmful to millowners' perceived interests, but also far too radical for state officials to take on board. If Meade-King, as representative of metropolitan judgment, constituted a theoretically open court of appeal for millowners and inspectors alike, the documents reveal that his sympathy for workers was far from disingenuous.

[74] Memorandum no.2104 from Commissioner, Northern Division, 14 June 1882, MSA.
[75] No.2705, from J.Nugent, Esq., C.S., Acting Secy. to GoB, to the Secy. to GoI, Home Dept., Bombay Castle, G.D, 19 July 1882, MSA.
[76] Morris, *The Emergence of an Industrial Labour Force,* and Chandavarkar, *The Origins of Industrial Capitalism in India.*

Meade-King, besides his inspections of factories in Bombay city, toured Broach, Kaira, Ahmedabad and Surat in Gujarat, undertaking intensive surveys of mills there. His reports from the mills he surveyed are in a critical sense different from the reports of the regular factory inspectors under the Act. They are freer. And realizing how this is so helps us realize what it was about Meade-King's visit that was so dangerous to millowners' interests, despite his lack of hostility towards them. Meade-King's intervention in the working of the Factory Act potentially radicalized the principles of regulation, because he was not bound by the rules that others were. His job was not simply to see that the Act was being carried out. His job was, through a scrutiny of the working of the Act, to consider its suitability and adequacy.

This touched the nerve of the most crippling anxiety that millowners had to face – that factory regulation and legislation had not been closed off for once and for all by the enactment of 1881. The provisions in it were open to change and extension, and at the very least to constant reformulation, debate and critical scrutiny with an eye to influencing further reform. Meade-King could ask all the questions that mere functionaries under the Act only raised rarely. If factory children were to be protected, then why not women? If women, then why not adult men? If holidays were to be instituted for one category of workers, why not for others? And this is, once again, the logic of law at work. For both colonial officials and millowners, a point of rest was desirable, a point where one could claim to have defined the 'basic' provisions or at least the principles and coordinates of factory regulation, beyond which further legal enactment would be largely superfluous. It was this point of fixity that was denied by Meade-King's interventions.

In keeping with this, his reports were brief, succinct, but also packed with uncomfortable details. Examining mills in Ahmedabad, he drew attention to the difficulty in making children conscious of their entitlements, a question other inspectors had not raised. 'A glance at the enclosed copy of

children's hours of work.....will show the confusion which must exist in the minds of children who, it must be remembered, have no idea whatever of time, with regard to the hours at which they have to enter and leave the mill. The difficulty of finding out whether the hours of work have been exceeded or not will be no less apparent.'[77] Sanitation and ventilation also came in for criticism, of the kind that they had been spared earlier, since they were not a part of the Act. Meade-King wrote: '..the roof of one (mill) appeared to let in so much of the rain that the floors were in many places saturated....The atmosphere of one sizing room was almost intolerable.'[78] In Nadiad, he found that 'the inside walls of the mill were dirty and the reelers were working in miserable sheds with little light and less air: one of these sheds had no window.'[79]

Meade-King's technique, throughout his reports, is to draw attention to the fine print of mill mismanagement, to describe appalling conditions, without making an explicit judgment about millowners. He frequently follows up his most damning observations with tributes to the goodwill of owners, and statements to the effect that the provisions of the Act have been fairly complied with. This is intriguing at first, but reading between the lines, there is no real contradiction. For Meade-King, the enforcement of the Act as it stands and the enforcement of humane factory conditions are two separate issues, both occupy his attention but are not collapsed into one another. His non-judgmentalism about most individual millowners actually is propelled by its own momentum towards much more damning indictments of the existing factory system. Other inspectors, Jacomb for instance, would fulminate over individual breaches of law. Meade-King, however, makes general statements to the effect that the law is being complied with, but goes on to add that the law, as it stands, is not adequate, that despite the compliance of most millowners, it does not guarantee any kind of security for factory operatives. And this is, from the millowners' point of view, the most dangerous line he could possibly take.

[77] From W.O. Meade-King to Secy. to Govt., G.D., no. 21, Bombay, 14 Aug 1882, MSA.
[78] Ibid.
[79] ibid.

Through careful and detailed description, then, Meade-King was making visible to the official gaze facts about factories that were known but could previously have been ignored. Once inscribed in the records, however, observations of this kind had – have – a remarkable capacity to be deployed as ammunition in future exchanges and confrontations. They served as fodder for argumentation. And nowhere is this more evident than in Meade-King's final report to the Bombay government.

Meade-King's arguments are composed around the idea that colonial officials were so very keen to hold on to – that protection for the factory operative would not only deliver her from misery, but also be in the interests of employers, who had everything to gain from a secure and healthy workforce. Given Bombay's abundance of cheap labour, this was almost certainly not the case. Millowners realized this, and by and large did not fall for this rather anodyne argument. It was a fiction, though, that was powerfully entrenched in much reformist labour thinking in England, and was a useful tool to deploy in the Indian context. 'The history of factory legislation in England', wrote Meade-King, 'will prove that judicious improvement of the condition of work-people will never injure the manufacturing interest. On the contrary, the surest guarantee of productiveness has been said to lie in proper conditions of labour. The English Legislature extended its protection to women and children gradually and steadily, in the face of a powerful opposition, but it cannot now be denied that the Factory Acts have conferred the greatest possible benefit on the operatives, while the employers are realizing the advantage to be derived from a superior set of work-people.'[80]

This is an argument that, in various forms, has found its way into much dominant thinking about industry over the last two centuries. It has regularly been deployed, strategically or unconsciously, as the founding argument for a justification of many kinds of industrial policy and employer practices, whether reformist or repressive. Simply put, the argument collates various interests involved in

[80] Report of Mr W.O. Meade-King on the Working of the Indian Factories Act, Poona, 24 June 1882, in 1882, G.D., vol.3, no.328, MSA.

industrial production, and, performing an intellectual *Aufhebung*, reifies them into the abstract interests of something called 'the industry'.

Understood in terms of economic balance-sheets, profit and loss, productivity and costs of production, it is possible, of course, to tabulate one kind of objective coordinate for 'industrial interests', at the point at which the industry enters the market. However, the real work of the argument is this: the interests of managers, industrialists, stockholders, and workers are absorbed into a single explanatory schema, which defines their stake in production as essentially unified. This stake, set over and above the concrete interests of specific parties involved in industrial relations, has historically served as a place-holder, an empty space that is constantly being filled up in different ways, depending on the relative weighting of the interests of capital and labour in the minds of those who formulate and make it their job to understand industrial policy. The arguments of colonial officials and inspectors – Meade-King in particular – are one variant of this. If the interests of workers are promoted and protected, so the arguments go, 'the industry' as a whole will benefit, productivity and profitability will rise. All kinds of other calculations, of course, are occluded in this account: the composition and abundance or scarcity of labour, the need for skilled labour, the ability of employers to exhaust labourers and replace them readily – which seems to have been very high in Bombay.[81] But this argument is being put in place in the documents we have.

It is uncomfortable and inconvenient to have to admit that industry itself may not be constituted by a pre-existing 'harmony' between workers and capital, a *telos* towards which industrial development is heading, but actually by struggles and conflicts over relative entitlements and powers. Instead, the argumentative gambit described above holds on to the idea of a universal and therefore placeless idea of industrial harmony, constituted in this case by the protection of workers, that must be the regulative principle of employment practices and state industrial policy. There have been other, and

[81] See Morris, *Emergence of an Industrial Labour Force.*

opposed, formulations of this doctrine of 'industry' in the past century. In today's world, increasingly, dominant arguments hold up the interests of capital as the interests of 'industry', and make fleeting reference to the half-truth that labourers also gain from conditions of footloose and impermanent employment, that this is the best way to be in the labour market and in the world of production. Once again, there is a transcendent appeal to the interests of 'industry', as though we can read the fortunes of labourers off from the success or failure of industry.

This regulative principle is what founds and sets in motion Meade-King's arguments for the protection of labour. Starting from the abstract principle that what is good for labour must also at some level be good for capital, that there exists a level at which all the interests in industry can be harmonized, the inspector goes on to make all kinds of recommendations for protection that would have made most millowners' eyes bulge with horror. There is much attention paid, as I mentioned above, to conditions of ventilation and sanitation. A picture of the mills appears, then, that does not in any sense correspond to the roseate representations in the accounts of the millowners' lobby. The concrete, everyday nature of work finds description in Meade-King's account, and the very existence of such description confounds arguments to the effect that factory operatives are happy and content in Indian mills. Meade-King describes 'the effluvia, arising from some latrines attached to a neighbouring mill', 'dust and fluff flying about', 'acrid steam' rising from sizing rooms.[82] Every day, then, it seems, work-people have to suffer risks and dangers that arise from the very nature of industrial production, and their capacity to withstand this is broken down by the conditions they have to work in.

'I have endeavoured to ascertain', writes Meade-King, 'whether factory work is continued for 13 consecutive days without one whole hour's cessation in the daylight in any other country in the

[82] Report of Meade-King, op.cit, MSA.

world.'[83] This statement launches Meade-King's arguments for the further lessening of the work-load, and the institution of weekly holidays for all women and children. 'Can the factory operatives of Bombay bear this continuous strain without injury either to themselves or to those who come after them?'[84] The answer is, clearly not. But this is not just an abstract appeal to humane instincts. Its force lies in its concrete description of work-practices, a force without comparable precedent in official discourse, barring perhaps the interviews in the Commission of 1875. Meade-King draws back, however, from effectively universalizing his judgment about the necessity of rest. This is a tension that runs through many of the documents where the question of work-hours is debated. On the one hand, evidence is frequently presented that demonstrates the harshness of the current regime of time for *all* workers. On the other hand, most reformist arguments stop short of extending the benefits of a holiday to all operatives, men as well as women and children. There seems to be an anxiety to control and limit the definition of the subject of protection. Children and, increasingly from the early 1880s, women are defined as the legitimate recipients of protection, which can then still be discursively constituted as 'special', a necessary aberration from the 'normal' worker, the adult male, who stands in less or no need of the benevolence of the state.

Only by building this wall between the interests and capacities of vulnerable and sturdy workers is it possible to desist from formulating universal rules of protection, which could make the transition to being conceived of as labour rights, in some sense. It is this possibility that most official discourse seeks to occlude. But this runs into tensions of its own, because the arguments and evidence supplied for the extension of protective legislation to women and 'young persons' (defined as between twelve and sixteen by the Act) can be made to expand, through its very logic, and cover adult men as well. Protection would then have to be conceived of not as a concession to vulnerability, but perhaps as something more intrinsic and inalienable. It is this final discursive step that is so frequently circumvented in the documents of the 1870s and 1880s.

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[83] ibid.
[84] ibid.

Meade-King's most crucial intervention, however, had to do with the definition of a factory. In England, the definition of factories had been widened over the decades through successive legal injunctions, culminating with the Act of 1878 which broke down the distinction between 'factories' and 'workshops', the latter being small enterprises employing less than 50 persons.[85] In England, investigative research and observation had uncovered several strategies followed by manufacturers to avoid factory regulation, many of which seem strangely contemporary to us today in India. To circumvent the law, production could be dispersed, and individual establishments could be kept deliberately modest. As the work of Maxine Berg, among others, on early industrialization in England has shown, employers had a wide and flexible range of options, and it was not necessarily more profitable to concentrate production physically, even for large manufacturers.

In Bombay, and in India generally, the problem went well beyond the flexibility of the strategies of big capitalists. Most workplaces *were* small, even in Bombay, rapidly on its way to becoming a major industrial centre. Large mills may have come to dominate the physical landscape of large parts of the city, with their smoking chimneys and their vast prison-like buildings. However, the 'small-scale sector', as it is now called, was expanding apace, and people in search of work shuttled between different occupations, sometimes in the mills, but more often in the world of informal production. This very division of labour into two sectors, one marked by the world of law and regulation, and the other left unregulated, was a creation of the state's choices. One of the ways in which this choice was exercised was the way factories were defined. The Act ran: ' "factory" means any premises (other than indigo factories or....tea or coffee plantations) wherein is carried out, for not less than four months in the whole of any one year, any process for, or incidental to, making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, transport or sale, any article or part of an

[85] Report of Meade-King, op.cit, MSA.

article.....wherein steam, water, or other mechanical power is used...wherein not less than one hundred persons are on any day simultaneously employed.'[86]

Defined in this manner, most sites of industrial manufacture in Bombay, not to speak of other cities where large-scale industry had made fewer inroads, were exempt from the functioning of the Act. Many employers could change their production choices, and exercise options that would exempt them from regulation. Most employers were in any case not subject to the law. But the realization of this, as with any of the other loopholes in the law, was not something that could be sustained comfortably, because of the logic of law and the articulation of interests and opinions around it. Once the existence of factory regulation opened up a window into the working lives of labourers in mills, it was increasingly made difficult to justify the excision of such an overwhelming majority of the workforce from protection. Difficult but not impossible: after all, to the present day, the vast majority of industrial workers have not come under the ambit of protective legislation, through the rule of regimes sometimes not unsympathetic to the needs of workers. The power of capital, as also its incredible dispersion, has sustained the limitedness of legislative diktat. However, information coming in from smaller factories made it necessary to constantly reiterate and formulate explanations for this lacuna, it was not an untroubled absence any more. And this in turn helped sustain a certain pressure from those who argued for the entitlements of labourers.

Meade-King's report on the state of small factories confirmed the growing belief that the definition of a factory contained in the Act of 1881 was inadequate. He wrote of the excessive hours of manual labour that were the consequence of under-capitalization and limited machinery, of the propensity of work-people to 'get tired and sleepy, and fall amongst dangerous unguarded machinery often from sheer exhaustion.'[87] Once again, his account described the vulnerability of workers to the strategies of capital, opening up ground for the exertion of pressure in the direction of further regulation. Meade-

[86] The Indian Factories Act (Act XV of 1881), op.cit.
[87] Report of Meade-King, op.cit.

King made an even more radical suggestion, unprecedented in my knowledge in the discussions around factory legislation. He argued that using the number of employees working to define a factory was intrinsically a flawed idea, whether the minimum number was pegged at a hundred or fifty or twenty. He proposed, therefore, that this condition of definition be done away with altogether.[88]

The potential meaning of factory regulation, then, was transformed as a result of Meade-King's intervention, itself a logical culmination of the first months of factory inspection. The Act was no longer being visualized as a limited, corrective measure that would accomplish necessary standards of safety and security for workers through a single injunction. This was the way millowners and, for that matter, most officials, would have liked to have it. If the meaning of the Act could be controlled and its scope kept limited – and no Act could be more limited than the 1881 one was – it would be possible to sustain comfort in the relations between state and capital. It was with this view in mind that the Act took the shape that it did. However, law has an urge to expansion that cannot always be restrained, despite the subjective inclinations of its makers. Investigative procedures were authorized by the law, and these uncovered practices and strategies of capitalists that seemed to discommode the efficient operation of protective regulation. Many of these practices occupied a shadowy line between legitimacy and illegitimacy, and the discourse of protection that had been set in motion by the debates around factory law found it difficult to sustain justifications for them.

Conclusion

In this chapter, I have considered the ways in which India's first Factory Act was put in place, and the administrative mechanisms that were deployed to this effect. I have, through a detailed reading of the official documents generated at this time, tried to disentangle the discursive dimensions of

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[88] ibid.

administrative practice, and recoup them with the aim of writing a history of the Factory Act that weaves between material practice and discourse.

Through this, I have tried to grapple, if indirectly, with a large question: how does one approach the history of law, as it appears through the prism of the narratives radiating off a particular legislative enactment? Broadly speaking, it is possible to distinguish two approaches to legal history. First, an 'internalist' set of explanations and descriptions, that tends to account for the story of particular enactments and legal practices by reference to the letter of the law and its logic, unfolding in historical processes that are consistent with a meaning inscribed within this. Second, a social history of law that takes special note of its connection with the practices of power: punitive and disciplinary systems, the exercise of formally sanctioned authority by force or by hegemony. This account restores law to wider, 'external' social processes and historical narratives, and, in its different inflections, treats it as embedded in relations of power, deriving its meaning from them. This, at least, has been the form that the social history of law has generally tended to take.

My approach tries, I think, to hold these two paradigms in tension with one another, a tension from which meanings may emerge. In one sense, I lean more towards the second approach, especially given the attention I pay to the discursive elements in the construction and enforcement of factory law, and the meanings of specific provisions of the Act as they entered social practice and networks of power. This paper clearly regards law as a form of politics, in the form of political intervention. This is, as I have argued earlier, a staple of the school of scholarship that is identified as 'critical legal studies': law is not at any point a disengaged, disembodied arbiter, it is always embedded in relationships of power. However, in another sense I have tried to express an uneasiness with some modulations of this view of things. What this paper has been careful to avoid is an *instrumentalist* account of law, as an inert, pliable tool in the hands of competing interests balanced against one another. The historical and political commonsense that instrumentalizes law is a component of left-

wing scholarly thinking on legal history in some of its forms, including certain variants of critical legal theory.[89] And it is a powerful temptation for any practitioner of critical social history, because at one level it is so true. Law does simultaneously mask and intensify power struggles of all kinds. Specific acts, injunctions, and procedures laid down in legal codes do generally acquire meanings well outside the scope of the texts that they are framed in, when put into practice in situations marked by relations of force and conflict. What, then, is the problem with viewing law as instrument of specifically grounded interests?

There can be two ways of approaching this. The first, I think, was given its best formulation in Thompson's study of the Black Act, *Whigs and Hunters*, in 1975, which I have already considered at some length in the Introduction. After a damning expose of the way law served the purposes of power through the course of a detailed history of the Act, Thompson ended, typically idiosyncratically, with an invocation of the rule of law, in its intrinsic meaning, as an 'unqualified human good'. Law may be a form and site of hegemony, but also constitutes a space where the marginal, dispossessed, and oppressed can fight their battles. Simultaneously, law restrains and checks the abuse of power.

The second way of approaching the problem, I think, involves revisiting the logic of 'internalist' legal history, in a way that is both critical and hermeneutical. That is to say, on the one hand it is important to stick to the crucial insight of critical social histories of law, that struggles over power constitute it at every level, but on the other hand it is also necessary to be attentive to how these struggles relate to the logic of law as it is inscribed and prescribed. Unpacking the meaning of legal statements and practices involves, in this account, a close reading of their content, and attentiveness to the possible meanings that can be drawn from them. What implications would stating a rule in this particular manner have? What *potential* deployments and strategies could it lend itself to, within its specific

[89] Not in all or most of its forms, though, as Robert Gordon would remind us. Gordon, 'Critical Legal Histories', op.cit., and 'Exchange on CLS between William Nelson and Robert Gordon', op.cit.

historical circumstances? It is important, I am arguing, to take absolutely seriously the textual nature of law, and the formal procedures associated with it.

We leave the terrain of the purely textual soon enough, but stay within the ambit of a certain internalist trajectory, when we begin to consider the circulations of ideas and opinions about law within the ranks of those who formulate and enforce it. This takes us to the point where particular laws are made, revised, and clarified, through a clamour of competing voices. What this can alert one to is the historical contingency in the formulation of particular legal ideas in the manner they came to be formulated. Contingency, here, should not be confused with chance or accident. What I am arguing, rather, is that the interests of those who formulate law – 'the state' or 'the colonial state' in our normal monolithic constructions – may not have sprung from a common source or shared a common logic. The arguments that accompanied and even composed the articulation of legal doctrine and practice were, at one level, a genuine argument over meaning.

But – and here I come to the core of my paper – this argument is one that is also moored in practice. The conflicts and tensions I explored – over age certification, over inspection, over the implementation of provisions of the Factory Act by millowners – all emanated from concrete crises and moments, even if relatively insignificant ones. This does not automatically, in any way, transfer the history one writes of these tensions from the realm of the discursive to the realm of a richer social history – much work remains to be done to accomplish even the beginnings of that, as far as the Factory Acts go. However, I believe attending to the way official documents construct and address these tensions discloses some of the hidden ways the path of law is traced. An Act, after all, is set out in black and white, and stays fixed in a particular form for a long time. But what concrete events and worries determine the importance given certain provisions? What develops from the effort to put these into practice?

I have tried to show the complexity of the consequences of these efforts. Briefly put, my argument is this: law, once enacted, becomes the tool of specific embodied interests and forces, but *simultaneously* arrests and sometimes even reverses the march of these interests. This can be quite independent of the intentions and desires of those who put the law into force. One of the major observations that runs through my paper is the anxiety expressed by millowners and law-enforcers alike that industrial relations must not 'degenerate' into an open conflict of interests, the hope that it should be possible to conceive of it and present it (for inspection, as it were) as embodying harmony. Those who inspected factories in the first months of the Act were extremely anxious that punitive action against disobedient millowners should be avoided as far as possible. Government officials expressed the same hope. Workers themselves lacked, at this stage, even the rudimentary organization necessary to constitute a pressure group, let alone a movement or network of movements. Everything, it would seem, was moving in favour of circumventing entanglements with the law. Everything, that is, except the letter of the law.

It was the text of the law, operating upon concrete situations and individuals, that seemed to generate, time and again, an anxiety that could not be comfortably resolved within the desired parameter of industrial relations. And this was not, this time around, a disembodied text. The law worked a wedge into the pre-Act consensus, a consensus based around the assumption that the millowner was sovereign. Despite the mildness of the Act and the inclinations of those who held positions of power, the documents of the time exhibit a worried awareness of the potential destabilization of this norm, simply because of the existence of a certain legal code for the first time. For this legal code brought a structure of administration into being, and the very existence of this structure was premised upon the opening up of a sovereign space – the factory – to scrutiny. This could perpetuate further tensions. One tension – inadequately explored here – for instance, had to do with the growing ability and propensity of parts of the press and the middle-class public arena to produce and circulate accounts of the working conditions in mills, and relate these to the non-

implementation of the Act. Another tension, homologous with this, grew from the information produced by inspection, which could not be comfortably absorbed within the old commonsense.

In time, then, we see an incipient *logic of protection* emerging, in the form of an integrated structure of arguments and positions that advanced the cause of the worker's safety, his or her entitlement to regular breaks, holidays, and also the cause of sustained state intervention on behalf of the labourer. This did not, of course, happen in a happy, Whiggish manner. Through the life of the early Acts, legal remedies were weak, loopholes in the law gaped wide open, and millowners flouted injunctions with impunity. However, certain anxieties were produced which could not be pushed easily to the margins. And this, again, can be traced to the fact that law created a certain space where forces working out of joint with the dominant consensus could mobilize and be heard.

From the perspective of a critically reconstituted internalist history of law, however, there is something even more important. The Act, weak though it was, had a certain innate *self-reproducing* logic. Once certain windows were opened up by the text of the law – protection for children, standards of safety, definitions of a factory – a space existed within this text itself, where the pressure to inscribe further change, improvement, and expansion could operate. If children, why not women? Why not adult men? Why should a 'factory' contain more than 100 hands? What about small factories? And so on. The legal text, the enactment, became a placeholder for meanings other than those already inscribed in it. And this, in itself, was constitutive of another central anxiety – formulating a *limited* protective law seemed to immanently generate questions, to destabilize its own basis, almost through metaphysical force, as it were. Officials and millowners both wanted, extremely badly, to conclude the Act, to freeze its meaning at a particular point. The makers of particular laws often have this view in mind. But equally, the law twists out of their grasp, and refuses to be fully frozen. At the very least, it puts up significant resistance to semantic closure. (And in the world of the law, semantic closure or openness are rarely without their concrete, practical correlatives).

Factory law kept unsettling the horizons of meaning it was meant to be contained within. Closure, after a while, became impossibly difficult.

The instances I have chosen – the Partridge controversy, the meanings of inspection, the visit of a foreign factory inspector – dramatize the tensions that can arise from the apparently simple practices of administering a particular Act. At one level, all these tensions are routine hazards in the concretization of a law. Similar stories could be told about other legislative enactments, elsewhere, in other times. But at another level, each history of this kind has something important to say about what law means. This chapter has been a limited attempt to understand the importance of one of these histories.

Workers In Danger: Factory Law, Accidents, and the Secret Life of Mills

As one walks through the narrow alleys of Lower Parel or Byculla, one enters innumerable working-class settlements, slums and *bastis* and *chawls*. The mills have stopped working over the last two decades, but a few survive, as an uncanny reminder of the past. In Lower Parel, the biggest mills are prime land and have been swallowed up by real estate developers. But there is the occasional working mill, and I passed by a couple of these on my visits to Bombay. Even in a city dominated by dead mills, secrecy marks the life of such workplaces as still function. With their barrack-like buildings and smoke-emitting chimneys, these mills contain the insignia of industrial mythology. For an outsider to enter a mill is the hardest thing there is.

Things have changed, but remained the same. Or rather, they have in strange ways returned to their origins. The mills have gone, and large-scale industry, in Bombay and elsewhere, is in collapse, being rapidly replaced by small, flexible units of production. But in many ways the industrial workplace, the site of manufacture, retains its old character. Workers are, at all sites of industrial production, forbidden to share their experiences with outsiders. Workplaces, large and small, are blocked off from public scrutiny. Recent business-spurred initiatives have tried to block off small and medium industrial units from state scrutiny and inspection as well, and there is little doubt they'll succeed. Export-processing zones, nodal points in the international economy, are similarly blocked from public view, and their labour practices are strictly secret. The industrial worlds of Bombay, or Ahmedabad, or other erstwhile centres of big factory production, are characterized by small sectors of large-scale production, innumerable small workshop units, and a complete absence of transparency in industrial practice. In other words, much like things were in the 1870s.

Secrecy remains crucial to the life of a workplace, and this is largely because of the conditions in which labourers are mobilized and worked. The workplace is the employer's to administer, with the help of more or less efficient management. Those who mobilize capital construct and administer the spaces of work, they are sovereign inside the factory. In this respect, a factory with the proverbial iron gates is more than a useful metaphor, it is an illustration of a certain key difference in levels of workplace secrecy. In any Indian city, the most visible and often most obviously exploitative employer of labour is the construction industry. Construction labour is performed, however, in public view, with all its back-breaking grind and daily danger. Labour inside an enclosed workplace has a very different sort of investment in privacy and secrecy.[1] The employer in the construction industry is no less sovereign or authoritarian than his counterpart in the factory, but the levels of concealment are different. This contrast deserves further exploration, but my concerns in this paper are different, and I am approaching them indirectly.

Secrecy, then, is important to the working of a factory. In the first two decades of factory industry in Bombay city and Presidency, the achievement of such secrecy was fairly complete. Now this was of course not an absolute secrecy. Most small mills could not afford the barriers to the outside world that large mills with their walls could. Even with large mills, secrecy did not necessarily connote an absolute ignorance of work-floor practices. But in very substantial measure, inside a factory the employer was at liberty to arrange and configure labour and space as he wished, without being subject to outside scrutiny.

What did a law that sought, in a very minimal sense, to protect workers do to this arrangement? This is the nodal point of the web of tensions that my paper seeks to explore. The 1881 Act, despite being one of the weakest pieces of protective labour legislation in history, nevertheless authorized

[1] I am grateful to Y. Jilangamba for pointing this distinction out to me.

intrusions of the state into the sovereign space of the mill, and granted factory inspectors the right to scrutinize, criticize and even forbid certain employment practices. Inspections opened up an inviolable space, that of the factory, to official state scrutiny. The precise texture of work in factories had been entirely unregulated by law prior to 1881, and the intrusion of regularized investigation of mill conditions constituted a latent threat to the principle of the employer's sovereignty in arranging labour and space in the manner he chose to. The first section of this chapter surveys this as a legislative history, tracing certain links between Indian and English factory law, and considering the formulations and elisions of principles of worker protection in the former.

Certain practices within the world of industrial labour came to generate worry. The principal sources of such worry were the hours of work inside mills, the employment of very young children, and the many sources of danger posed by working conditions inside factories to the bodies of workers. It is this last point of tension that I dwell upon here. There are certain reasons for this. I will argue that the information constantly produced by investigations and official inspections not only formalized the opening up of the factory to the gaze of the outside world and of the state, but also named the factory as a space of danger. The bodies of working people were threatened by badly guarded machines, by overwork and fatigue, and by what was often read as 'carelessness' on their own part. The lives and limbs of workers came to constitute a base where state intervention could ground itself.

The major preoccupation of my paper is accidental injury to workers. It seems to me that there is only one point at which the worker's relationship to the mill, in an era of near-total employer sovereignty within workplaces, can become a matter of public knowledge, only one moment at which the worker's agency within the workplace can be made visible to the outside. And that moment, tragically, is the accident, where the relations of person and machine, labourer and work-space, are dramatized. At no other instant, in the era before the great industrial strike, is the worker's centrality in the process of work so evident.

I have tried, in the course of this dissertation so far, to make certain basic arguments. First, the administration of the Factory Act had the capacity, at moments of tension, to dramatize conflict between interests of the employer and those of the worker. Often reluctantly, a state whose own discourse on the subject of protection was fractured and hesitant found itself stepping in to enforce certain principles of protection upon the practice of employers. And this generated tensions. Further, the practice of inspection produced all kinds of knowledge for the state that were potentially disturbing, since they bore with them latent arguments for the extension of factory law. Within the realm of administration itself, different voices, caught for posterity in departmental archives, debated the scope of the Act, and the necessity or otherwise for its extension.

I shall consider the issue of endangerment of workers as one with certain propulsive capacities: that is, it had the ability to generate discomfort about, and reconsiderations of, the stipulated limits of protection. The issue of safety within the space of the mill had many dimensions: disease, radically shortened working lives, and – most importantly for my argument – accidents. The second section of this chapter dwells on the dangers posed to working bodies by machinery and the work process, and considers the ways in which these dangers were understood and presented within the discourse of factory inspection.

Accidents were at the centre of a dense web of intersecting practices and discourses. The body of the worker, the safety of the child, the tragedy of overwork, the arrogance of legal intervention, the rightful autonomy of industrial-capitalist practice from regulation, the carelessness of labourers at machines – these and many other positions and prejudices constellated, tensely, around the issue of industrial safety. They produced interlocking claims upon law, at certain dramatic conjunctures best articulated, I believe, in specific *events*. In the final and most important section of this paper, I shall consider three such events. Incidents that demonstrated the vulnerability of the worker, through the

experience or imagining of accidental injury, acquired a certain propulsive character: they shook the boundaries of state intervention in matters of industrial labour, and exerted certain pressures towards a reconsideration of factory law.

The historical record, as historians have generally tended to read it, shows us the limits and weaknesses of such pressures. This is demonstrable by the absence of any real intervention for a full decade after 1881. I do not dispute the judgment that early factory law was inadequate and feeble, and that its weaknesses were structural, not incidental. But there are teasing questions to be asked once this point is conceded, and they have not been asked yet. How might we understand the tensions that emanate from the archival records of Bombay Presidency around the issue of factory legislation? How did the vulnerability of workers come to provoke such arguments and debates within the memoranda and letters that circulated within the administrative apparatus? Why did apparently trivial issues like the fencing of machinery, or incidents like the deaths of labourers produce, at certain moments, such high drama? It appears to me that there is a history that exists beneath the history of ineffectuality and indifference that seems to characterize early factory legislation, another narrative that shadows and disturbs the dominant one. It is the threads of this that I shall try to disentangle in what follows.

Making the Rules: A Brief History of Factory Legislation

In this section, I shall consider the early history of rule-making around the question of factory labour. The locus of this history is the Act of 1881. However, in order to understand the implications of this piece of legislation for the issue of workplace safety and danger, it is necessary to understand its genealogy. Accident law in England, which was beginning to be radically reformulated in the 1870s, is of relevance here. So too is the precursor of the 1881 Act, the Draft Bill of 1878. Finally, shortly after the passage of the Act, following a provision laid down in it, local governments made certain rules

within its parameters, with more precise specifications about the nature of regulation. This section will end with a consideration of the rules framed by the Bombay Government under the Factory Act, shortly after its passage in 1881. With the framing of these rules, a certain textual body of legislative and administrative regulation for factories was sculpted. My purpose will be to understand the place of endangerment and safety in this history of rule-making.

It is generally, and rightly, perceived that early factory legislation in India was limited almost exclusively to the protection of child labour, and that too with a number of qualifications. Children, defined as persons below seven years of age, were prohibited from working in factories (defined as establishments using mechanical power and employing more than 100 persons for over four months a year) beyond nine hours. In the text of the 1881 Act, regulations and definitions around the figure of the child preponderate, to the virtual exclusion of other dimensions of labour in the mill.

Workplace safety, then, seems to be marginal to the set of considerations that frame the first Factory Act. However, there are two provisos that need to be made to this. First, the authorization of regular inspections by factory inspectors – the enforcement mechanism instituted by the Act, in accordance with existing English law – opened up the workplace to outside scrutiny, and made visible the conditions in which operatives worked. Such inspection, despite its limited brief, necessarily produced a large body of evidence about the dangers faced by all operatives from accidents, inadequate ventilation and sanitation, and generally unsafe working conditions. Second, the only issue other than child labour touched upon by the Act of 1881 was that of industrial safety. This occupied a far smaller place in the enactment than the question of the factory child. However, the vaguely worded provisions of the Act emphasizing the protection of workers from accidents and unfenced machinery were not as insignificant as the lack of historiographical attention to them would suggest. These provisions named the relationship between workers and the machine (and more generally the mill) as one of physical danger. More importantly, the dangers posed by working conditions inside

mills were not experienced by children alone. Accidents, sanitation and ventilation composed a thematic window through which the worker could enter regulative discourse as a subject of *generalized* industrial danger. There were fractures within this too: as we shall see, even within the flaccid safety provisions of the first Act, the child occupied a privileged space. Be that as it may, the attention paid to the physical conditions of the mill, however inadequate, threatened the stability of the Act, as a spectral finger was pointed at the dangers experienced universally by factory workers.

How did the safety provisions that the Bombay government was enforcing at the end of 1881 come to be? What kinds of erasures, occlusions and mediations did they undergo before they were finally set into (seemingly) firm governmental print?

A continual point of reference for the formulation of factory law in India was English labour legislation. The regulation of work in English factories began at the turn of the nineteenth century, but really took shape after the Reform Act of 1832, as reformers like Sadler and Ashley (later Lord Shaftesbury) pushed through more comprehensive regulative measures in Parliament. The dominant focus of legislation was initially child labour, but expanded fairly soon to cover a wide range of issues – working hours, trade unions, and, increasingly from the 1870s, compensation for accidents. An Act passed in 1844 laid down certain rules for the fencing of dangerous machinery and rendered employers liable to punishment if workers were injured by unprotected machinery or mill-gearing. These rules were extended through subsequent decades, though the modalities of fencing were a subject of fierce contestation, many employers tenaciously arguing for the whittling down of safety in the interests of economy.[2]

The context for the emergence of work-related accident law in England, in contrast to India, was litigation against masters by workers. It was in 1837 (fairly late, at a time that industrialization, at least

[2] P.W.J. Bartrip and S.B. Burman, *The Wounded Soldiers of Industry: Industrial Compensation Policy 1833-1897*, Oxford 1983.

in certain sectors, had been firmly established in occupational life) that the first High Court case of an employee suing his master for injury, *Priestley v. Fowler*, was recorded. In the decades following this, as Peter Bartrip points out, employers' liability for injuries sustained by employees at work was effectively muffled by three 'legal fictions' developed by the courts. The first was the principle of common employment, which held that no action against a master could lie if a fellow-workman, one in 'common employment' with the injured party, was responsible for the injury. The second was the idea of contributory negligence: no action could be upheld if the victim could be shown to be in any measure responsible for the accident. Third, and perhaps most important, was the legal fiction of *volenti non fit injuria*: a workman, having entered a contract for dangerous work, had by implication accepted the risks attendant upon such employment, and had no claim to compensation, unless the master could be shown to be directly and unambiguously responsible for injury.[3]

Long debates over the question of employers' liability accompanied the formulations and reformulations of common law doctrine. In the 1870s, after the passing of the second Reform Act and the growing strength of trade unionism following the formation of the Trades Union Congress (1868), it became evident that accident law, hitherto resolutely kept within the negotiable limits of common law, would enter the statute books. Bartrip, the major historian of workmen's compensation, does not accord this shift the importance it probably deserves, an importance buttressed by the fact that the 1870s were also the decade of the final abolition of master-servant law and of comprehensive labour law reforms that reflected the growing clout of organized labour.

In 1880, Parliament passed the first Employers' Liability Act. This abolished the doctrine of common employment in certain cases: for instance, when there was a fault in the machinery used by the workman, or when the person directly responsible for the accident exercised powers of

[3] Peter Bartrip: 'The Rise and Decline of Workmen's Compensation', in Paul Weindling, ed., *The Social History of Occupational Health*, London, 1985.

superintendence over the injured party.[4] In these cases, employer liability for accidents was to be assumed.[5] The principle of employer liability, as Karl Figlio observes, enshrined a double principle. To claim compensation, the injured worker had to show that the employer had in some sense *caused* the injury. Compensation was part of tort law: there could be no claim for compensation if actual employer liability was not proved. By the same token, however, to prove liability was to show that blame and responsibility attached to the figure of the employer. Neither Figlio nor Bartrip, however, address to satisfactory extent the implications of this complexity. What this anchorage of compensation in tort law indicates is that accidents were conceived of as a ground for industrial conflict, their proper place being in the courts, in the world of litigation, of prosecution and defence. Figlio is correct in pointing out that under the 1880 Act, the balance was still weighted heavily in favour of the employer.[6] However, the obverse of this was that the persistence of industrial conflict was actually articulated, rather than masked, by law.

This state of things was transformed radically by the Workmen's Compensation Act of 1897, a piece of legislation with equally complicated implications. Cutting through a fascinating and complicated history, it can be said that the principle of employers' liability, with its tendency to encourage industrial conflict, produced much dissatisfaction among a growing and articulate body of opinion interested in promoting industrial *peace* through law. Compensation law as litigation was unsatisfactory for workers, given the odds against them in courts of law and the expense of many cases. At the same time, it was unsatisfactory for employers and allied interests, given its tendency to stress the clash of interests between capital and labour, the court becoming a site for the enactment of this clash. The Act of 1897 tried to lift the matter of work-related accident law out of the realm of

[4] This takes on added significance if we note that the doctrine of common employment had expanded in the 1850s and 1860s, and had come in many cases to encompass managers within its ambit, which would imply that workmen could not sue for damages if accidents were caused by negligent management, as they often were. The 1880 Act, formally at least, seems to have reversed this principle.
[5] Walter Gorst Clay, 'The Law of Employers' Liability and Insurance against Accidents', in *Journal of the Society of Comparative Legislation*, vol. 2, 1897.
[6] Karl Figlio, 'What is an Accident?', in Weindling, op.cit.

litigation altogether and transfer it into the realm of administration. The Act essentially authorized a scheme of insurance for injured workers. If they suffered 'an injury arising out of and in the course of employment', they no longer had to prove employer liability; they were *guaranteed* compensation as a routine matter.

What did this imply? As Figlio argues, one consequence of the Act was to achieve a naturalization of the accident itself. No longer conceived of within the world of fault, blame and culpable responsibility, accidents appeared, paradoxically, as expected unpredictable events within the world of employment. Figlio sees this move as implicit within the contract-form itself, which constitutes 'the notion of an event which "just happens". The contract lays down a set of expected events, both by explicit formulation and by implication: it establishes a field of events that are natural, a background in which things occur.' Accidents are unforeseen events that, however, are contained within and do not disrupt this scheme of natural expectations.[7]

Figlio is, I believe, largely correct in his assessment of the transformation of the meaning of accidents, if we conceive of naturalization as a process, as a trajectory implicit in the definition of employment relationships within industrial capitalism. I would like to ask, however, whether this exhausts the semantic universe of accidents at work, and if there are other, perhaps contrasting observations we might make about this. Bartrip observes that, despite the many ineffectualities of workmen's compensation, the principle created a working-class right, and was thus of enormous symbolic value.[8] Taken in conjunction with Figlio's argument, one could read certain historical implications in this, implicit though not directly stated in either author's argument. Workmen's compensation, it could be argued, stabilized a certain structure of relations between capital and labour, reforming accident law in the direction of welfare and benevolence, and simultaneously stripping it of its tendency to generate industrial conflict and bitterness. This would be, it must be

[7] ibid.
[8] Bartrip, op.cit.

remembered, an argument about the potential and the structural implications of workmen's compensation, not an argument necessarily about its actual historical trajectory, which of course would be subject to much contingency.

While accepting that this is a valid way of looking at the nature of accident law, I would like to argue that there are other dimensions to this that might pull in different directions. The achievement of a working-class right, after all, only stabilizes industrial relationships at certain favourable conjunctures; at other times the conferment of this right can be a major stimulus to prolonged conflict. Accidents can be and have been, historically, at the centre of many articulations of working-class grievance. Similarly, Figlio's argument that accidents are 'naturalized' in the world of contractual relationships contains a dimension he does not seem to acknowledge: if accidents are 'natural' within the world of work, then this world is also a world of danger. This danger is something that cannot be wished away, teleologically, from the process of production. The productionist stress of modern industrial systems, capitalist and otherwise, can potentially be disrupted, or at least menaced, by the realization that industry is not simply virtuous, that it can kill. Historically, the dangers of the industrial workplace have often argumentatively been counterposed to the cornucopias of wealth and productivity unlocked by it.

What does all of this have to do with India? The simple answer to this is that labour law in England was, and remained, a constant point of comparison and contrast with that in India. However, there are more complicated homologies and dissonances that can also be traced. In India, in the period of early factory legislation, litigation was never the source of pressure that it was in England, since the nascent and small industrial working class was to take several more decades to emerge as an organized political force. Factory law in nineteenth-century India emerged not from the propulsions of legal battles and tensions, but from a complicated field of pressure that included, as we have seen, the demands of Manchester, the initiatives of philanthropists and parliamentary campaigners in

England, and the arguments of some social reformers in India. Accidents entered protective labour legislation, but were not the subject of separate legislative consideration. However, the arguments rehearsed above are significant for an understanding of accident-related factory regulation in India. How this is so will become clearer in the pages that follow.

When officials in the British Indian Government corresponded and debated over the issue of factory legislation in the late 1870s and early 1880s, one of their points of reference was the Factory and Workshops Consolidating Act of 1878 in England. This was the culmination of a long process, beginning in the 1850s, whereby factory legislation was made more comprehensive, as it was extended beyond its earlier limits (for the first five decades of its existence, factory law largely covered establishments manufacturing textiles alone). The passage of the 1878 Act was one of the sources of pressure behind the achievement of protective legislation in India. The central government, in the midst of its final deliberations on the necessity for factory legislation, demanded that a copy of this Act be circulated among officials. This was in 1880. Two years later, when Meade-King was appointed by the Bombay Government to look into the working of the Factories Act, he appended sections of the 1878 Factory and Workshop Act to his report. The English law for the notification of accidents was an important part of these enclosures.

NOTICE OF ACCIDENT TO BE SENT TO H.M'S INSPECTOR OF FACTORIES AND WORKSHOPS FOR THE DISTRICT, AND THE CERTIFYING SURGEON OF THE DISTRICT:

The following are the Accidents of which the above Notices are to be sent:

Any Accident which

a) **causes loss of life to a person employed in the factory or in the workshop, or**

b) **causes bodily injury to any person employed in the factory or in the workshop, and is produced either by machinery moved by steam, water, or other mechanical power, or through a vat, pan, or other structure filled with hot liquid or molten metal or other substance, or by explosion, or by escape of gas, steam, or metal, and is of such a nature as to prevent the person injured by it from returning to his work within forty-eight hours after the occurrence of the accident.**

Date of Accident: -

Name of Firm: -

Address of Firm: -

Name of Person Injured: -

Residence of Person Injured: -

Place to which the injured person has been removed: -

Age of Injured Person: -

Nature of Accident, whether slight or severe: -

Cause of Accident: -

Signature of Occupier, Manager or Agent: - [9]

This and similar rules clearly laid out a structure for the production of information about factory conditions and the kinds of danger posed to employees. The extent of accidental injury to individual sufferers was to be determined, its cause identified, and responsibility accordingly affixed. Further, the accident victim's residence and post-accident location was taken note of, so the kind of medical treatment received or not received by her entered government records. The factory inspector appeared as the arbitrating authority. Laws passed in the 1840s and 1850s had given factory

[9] From W.O. Meade-King to Secretary to Government, General Dept., no. 21, 1882-83. General Department, Maharashtra State Archives, 1882, vol.3, no. 328, part III.

inspectors the right to institute tort prosecutions on behalf of injured workers. This had been accompanied by the framing of rules regarding the fencing of machinery. Initially fencing was not mandatory, but if failure to fence produced accidents, the employer was liable to face prosecution, which under the terms of the 1844 Act could be undertaken not only directly by the plaintiff but also by the Home Office on her behalf. As Bartrip and Burman observe, this was an 'extraordinary extension of government intervention into the "sacred" contractual relationship between master and servant'.[10] In the 1850s, controversy broke out when inspectors tried to force employers to accept extended fencing requirements. A Bill read in Parliament in 1856 bore the marks of employer pressure to scrap this intrusion into workplace regulations, and the passage of this Bill marked a victory over factory inspectors. Fencing regulations remained more or less at their 1844 level, requiring the protection of all machinery near which women, children, or young persons were likely to pass.[11]

This was the law consolidated by the 1878 Act, and it integrated rather than modified existing factory legislation in England, including rules on factory safety. The makers of factory legislation in India considered this a convenient peg on which to hang their formulations about the extent of protection necessary for factory operatives. The 1878 Act provided a kind of regulative principle for initial factory legislation in India, modified greatly by constant reference to the difference between Indian and English conditions, histories, and habits. It is time to turn now to the history of rule-making around the issue of factory safety in India.

In the first chapter, I have looked at the 1879 Factories Bill and its relationship to the eventual enactment of 1881 in some detail. That history needs to be revisited briefly to illuminate the trajectory concerns around endangerment took. The areas chalked out for legislation, in the Bill that was tabled in the Council of the Governor-General of India on 7 November 1879, were child

[10] Bartrip and Burman, op.cit.
[11] ibid.

labour, the prohibition of 'dangerous work' by young persons in factories, the fencing of machinery, the reporting of accidents, and the establishment of a system of regularized factory inspection. This Bill was referred to a Select Committee for further consideration, and was finally promulgated as Act XV of 1881.[12] In the process of turning the bill into law, however, there were significant excisions and amendments made, and these bore centrally on the question of provisions for the safety of millhands.

The provisions of the Factories Bill were largely drawn from English factory law, large sections being lifted verbatim from the Act of 1844. What is striking about the formulation of the Bill, as compared to the consequent Act, is the relative weight of various provisions. The initial clauses contain a definition of the child by age, a distinction between 'children' (defined as persons under the age of twelve), and 'young persons' (between twelve and sixteen). Children are prohibited from working more than six, and young persons more than eight, hours a day in factories, which are defined by the use of steam or other mechanical power, and the employment of more than fifty persons for over four months in a year. There is considerable weight given, in the clauses following these, to the question of safety from dangerous machinery, with the adoption of some of the key provisions from the 1844 English Factory Act. Consider this:

> **6. No occupier of a factory shall allow any child or young person to clean any part of the mill-gearing or machinery of such Factory while the same is in motion, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of the steam-engine, water-wheel or any other mechanical power, as the case may be.**
>
> **7. Every fly-wheel directly connected with a steam-engine, or water-wheel or any other mechanical power in any part of a Factory, and every part of a steam-engine**

[12] J.C. Kydd, *A History of Factory Legislation in India,* Calcutta, 1920.

or water-wheel, and every hoist or teagle or other part of the machinery or mill-gearing of a Factory which may, in the opinion of the local Inspector of Factories, be dangerous if left unfenced, and near which any child or young person is liable to pass or be employed, shall, while the same is in motion, if such Inspector so requires, be kept by the occupier of such Factory securely fenced.

8. Every occupier of a Factory or, in his absence, his principal Agent in the management of such Factory, shall send such notice of injuries occurring to persons therein to such authorities and within such time as the local Government may from time to time by rule direct.

9. Any person who, in breach of this Act –

a) employs any child or young person in any Factory;

b) allows any child or young person to perform the work forbidden by, or to act in contravention of, section six,

c) neglects to securely fence any machinery or mill-gearing in any Factory; or

d) neglects to give notice of any injury,

shall be liable to pay a fine not exceeding two hundred rupees. [13]

What is significant about the above provisions is their *weight*: clearly, this is the focal point of intended legislation. Two relationships are spelt out here; first, between the employee and the machine, and second, between the employer and the state, represented by the Inspector. The employee's relationship to the physical space of the mill, concretized in scutchers, boilers, carding engines, hoists and teagles and the like, is clearly one of extreme vulnerability. Obvious as this appears at first glance, it is important to continually remind oneself that till the formulation of this Bill, these were subjects considered outside the purview of official scrutiny and regulation. The

[13] Home Judicial, Feb. 1879, no. 23-25, NAI.

physical space of the mill could be composed and arranged by the millowner, who was not to be impeded in his choices: he could fence or not fence dangerous machinery as he chose, he could place machines as close to or far from each other as he wanted to, and he incurred no penalty for operations that placed the lives and limbs of his workers at risk.

In this new formulation of normative spatial arrangement, however mild and vague (and these provisions *are* mild and vague), this authority comes under a cloud. The physical relationship between worker and mill is one of vulnerability and danger, and this vulnerability produces the necessity for official intermediation. This introduces the inspector, and the regime of inspection, into the picture, and so around the dangers posed to mill operatives by faulty or unfenced machinery, a new and potentially adversarial relationship between state and capital is constructed. It may be in the interests of the millowner to economize on space and expenses by not fencing machinery adequately, but that will no longer do as an argument for endangering the employee.

Clearly, in the formulation of safety regulations, there is an implicitly hierarchical arrangement of the subjects of protection. The unsafe machinery mentioned in the text of the Bill presumably holds severe dangers for all classes of operatives. It is the child and the young person, however, who are singled out as the prime recipients of protection. Machinery or mill-gearing 'near which any child or young person is liable to pass or be employed' is to be fenced and guarded securely. However, this is not as absolute a refusal of more universally applicable protective norms as might appear at first sight. If we read the Bill carefully, it contains a hidden point of entry for other classes of operatives. '*Every...part of the machinery or mill-gearing...which may, in the opinion of the local Inspector of Factories, be dangerous if left unfenced*' is the statement that precedes the clause '*and near which any child or young person is liable to pass*'. There is a deliberate ambiguity here. Does this spell out protection for the child/young person alone, or does the first part of the sentence indicate that the Inspector can order fencing on the ground of danger applicable to *all* operatives, keeping in mind the special requirements of minors

but not being constrained by the need to address these alone? This ambiguity provides a possible crack in the particularism of safety provisions, and opens ground for the articulation of more generalized concerns about factory safety.

These concerns find their articulation at the point of crisis, when an accident occurs. This is the one point at which differences between different classes of operatives, so carefully constructed by law, dissolve: grievous injury is a matter for concern and scrutiny no matter who the victim may be. Injuries to operatives need to be reported. What makes this provision unsettling from the millowner's point of view is that it is not evident that the nature or seriousness of the accident has any bearing at all upon the necessity of reporting it. This is not spelt out in the text of the law, and is for the local Government, or even the Inspector, to decide. Can something like a temporarily bruised leg, for instance, direct the attention of the state to conditions within a factory, and thereby perhaps make life slightly uneasier for the employer? Or do injuries have to be more serious in order to merit such attention? What is absent in the Bill is a sense of closure with regard to these questions, and in this lack is unsettling.

The Act of 1881 is a differently constructed text from its predecessor, and the differences are revealing. First, there is a plethora of rules regarding the employment of children: the age at which they can be employed, their maximum hours of work, an injunction compelling employers to give factory children regular intervals from work, four compulsory holidays a month for children, and so on. In a sense this attention lavished on the factory child is something of a smoke-screen, drawing attention away from adult labour, which after all was far more important in the Indian mills (as opposed to English mills) than child labour was. The attention to the child also obscures the fact that the Bill's original distinction between 'children' and 'young persons' has now been excised from the legal text, and the only class of workers singled out for protection is defined in much less generous terms: children are defined as persons below twelve, and can legitimately begin work in mills at age

seven. Many complex considerations went into this legislative amendment: this is not the place to consider its specific history. What is more important for the purposes of this paper is the fate of the worker-mill/machine relationship in the Act.

The changes from the 1878 Bill on this front are complex. First, the fencing of machinery and accident provisions occupy a far smaller place in the Act than in the Bill. This marks a shift in legislative focus. On the other hand, there is a sense in which the regulation of machinery is much more comprehensive. Unlike the 1878 document, the final enactment specifies that 'dangerous' parts of machinery *must* be kept securely fenced. But is this as significant an advance towards meaningful safety regulation as it might seem to be? Consider the rules under the section of the Act entitled 'Fencing'':

> 12.
>
> **a) fly-wheel directly connected with a steam-engine, or water-wheel, or any part thereof, or other mechanical power in a factory,**
>
> **b) every hoist or teagle near which *any person* may pass or be employed,**
>
> **c) other dangerous part of machinery**
>
> **must be kept securely fenced.**
>
> ***Orders under section © can be set aside by local Government or other authority after appeal or otherwise.*** (italics mine)[14]

The implications of this change in rules point in two directions. First, the stress laid on the reversibility of section C, which is crucial to the administration of safety in factories (fly-wheels, hoists and teagles after all constitute only a fraction of the sources of machinery-related danger in textile factories) is significant. The acknowledgment of reversibility limits the inspector's capacity to order safety regulations in order with his observations, subjecting him, too, to the scrutiny of a higher

[14] The Indian Factories Act, 1881.

authority, which may see it necessary to intercede on behalf of the employer. The more significant advance made, however, is the shift from a safety provision that, in the Bill, could perhaps be interpreted as pertaining only to children and young persons, is now specified as applicable to 'any person'.

Finally, the provisions of the Act for the reporting of accidents mark the achievement of the closure absent in the initial formulation, in the Bill. The duty of reporting accidents is enjoined upon the employer, but only in two cases: if the accident results in death, or if it results in serious bodily injury incapacitating the employee's resumption of work for more than forty-eight hours. The Bill of 1878 had left it to the discretion of local Governments to decide the modalities of the reporting of accidents. The Act, on the other hand, chose to transplant the relevant provision of the English Factory and Workshops Act of 1878, and limit the definition of a serious accident. Given the kinds of pressures upon Indian factory operatives to hold on to work, it is conceivable that serious injury in many cases, short of actual loss of limb, would not have acted as a deterrent upon continued work. Also left hazy were the details of what was to happen to the injured worker after his injury. It was not enjoined upon the factory owner to provide for his or her medical relief, nor were there any provisions corresponding to those in the English Act that required an Inspector to take note of the residential address of the victim. The English Act assumed that the victim would, at the initiative of either the employer or other authorities, be 'removed' – that he would be looked after. In India there was no such assumption.

We pass now to Bombay, the focal point of factory legislation and of this paper. For the purposes of Bombay, the Act did not receive its final formulation in the central legislature. Section 18 of the Act allowed the Government of Bombay to make certain additional rules to extend the enactment. In September 1881, a set of rules was published, containing some small but not insignificant modifications of the statute. First, the Inspector of Factories was given certain limited but concrete

powers. The section of the Act that dealt with the fencing of machinery was retained, with the additional clause: 'to the satisfaction of the Inspector.' Similar provision was made for mill-gearing. The inspector was authorized to prosecute a millowner for failing to carry out orders to fence machinery.[15]

The Bombay Government's rules modified the Act significantly with respect to another issue: the reporting of accidents. Here there was a significant advance made. The Act compelled the reporting only of serious accidents 'resulting in death or bodily injury'. The new rules, on the other hand, made it necessary for the millowner to report all accidents, minor or serious. This was to be the ground for the production of substantial quantities of accident-related information by Inspectors. Even more crucially, the Bombay Government's rules made it necessary for serious accidents to be reported within an hour of occurrence, whereas the Act had been more generous to the millowner, allowing him to report accidents any time within two days of their occurrence. Under the Bombay rules, minor accidents too had to be reported very soon to the local Inspector, within twelve hours. The employer had to either ensure safety to the best of his abilities, or allow the state to make prolonged and potentially damaging enquiries about accidents in his mill. In the event, as we shall see, accidents came to feature prominently in the concerns of the state about the factory.

Ambiguities remained, though, and were not to be erased. The practical efficacy of factory inspection was limited, and the powers of an inspector not very clearly defined. Violations of the letter of the law by the millowner – failure to fence machinery or to report accidents, for instance – were subject to prosecution. But what of actual accidents? Here the inspector's duties were not clearly spelt out. He was to report accidents to the government, of course, but in what manner and what form? Was he to look for reasons why workers were endangered in the mills? Was he supposed to establish

[15] No.2972, G.D., Bombay Castle, 10 September 1881.

responsibility for accidents? Did the question of the liability of the employer shadow the prescribed investigative practices of the inspector?

There were no easy answers to these questions, but one can see them running through the threads of inspectorial discourse, as articulated by the reports on the working of the Factories Act in the early 1880s. In the absence of a clearly spelt out agenda of action for inspectors vis-à-vis accidents in the mills, what the 1881 statute and the Bombay rules generated was another kind of practice, the production of knowledge about factories, from within official administrative circles.

The importance of this practice must not be underestimated. The regularization of a system of reportage to the government about factories was something very new. Prior to the Act, there was no system in place that the state could mobilize to pierce the walls of secrecy around mills, and investigate working conditions. There was, however, a solitary precedent. This was something I have already considered at length in the first chapter, the knowledge systematically gathered by the state in 1875, when, in response to pressures towards factory legislation, a Commission was set up to look into conditions within the mills of Bombay. I plan now to return to this moment, jumping back in time to consider a key moment in the distillation of concerns over the factory. In these concerns, as I shall try to show, the vulnerability of the worker within the mill played a key role, and accidents had a special place in the definition of this vulnerability. After examining the production of knowledge by the 1875 Commission, I shall turn to a different kind of knowledge-producing exercise, and consider those parts of factory inspectors' reports in the early 1880s that foregrounded dangers from machinery and analysed accidental injury to workers. This will set the stage for a detailed consideration of certain dramatic episodes where concerns and anxieties over accident regulation crystallized.

Productions of Knowledge: Intimations of Danger

The Commission of 1875

From the 1870s, falteringly and inconsistently, government officials began to collect information about conditions under which factory operatives in Bombay laboured, and thereby, indirectly, to produce a body of knowledge in which the mill appeared as a source of danger to the worker. It is important to remember that the production of knowledge, as is usually the case, spilled over the boundaries that were meant to encase it. The Bombay Factory Commission of 1875 stood at the intersection of conflictual pressures. The Government of India, pushed to consider the question of factory legislation by Lancashire capitalists who wanted to choke competition from Bombay cotton, and by philanthropists and social reformers in both England and India who expressed horror and disgust at working conditions in Indian mills, authorized the Bombay government to set up a body to examine the need for the formulation of legal protection for factory workers, in particular children working in textile mills. The provincial government, however, was buffeted by other pressures, in particular the vocal opposition of millowners in the city to any kind of official interference with the space of the mill, which they considered it their sovereign right to administer and organize.

A brief reminder of the composition of the Commission is in order here. Of the nine members who began investigations in April 1875, six were closely associated with the cotton industry. These included Sir Mungaldas Nathoobhoy, who had previously been chairman of the Bombay United Spinning and Weaving Company; Morarjee Goculdas, who ran an important spinning and weaving concern of his own, and Dinshaw Manockjee Petit, a millionaire who was the biggest millowner in the city.[16] The only members who dissented from the overwhelming refusal of the Commission to

[16] Home Judicial, January 1880, nos. 9-94 and K.W., National Archives of India.

authorize legislation were the Collector of Bombay, Arbuthnot, and Thomas Blaney, a remarkable figure in the history of public health and sanitation initiatives in the city.

The composition of this body made its eventual conclusion predictable. However, this is not the whole story. The proceedings of the Commission reveal the propulsive character of investigation, even when the investigators themselves strain almost unanimously towards closure of a particular kind. The millowners, engineers, doctors, agents and labourers interviewed between April and June 1875 constructed, unwittingly, a body of evidence that could subsequently be used to argue in *favour* of protective legislation for factory workers, even though the Commission was set up primarily to quash such argument. One of the issues that hovered disturbingly around the margins of the proceedings was that of the physical dangers faced by millworkers, and the absence of any safety regulations for them.

In principle, of course, the Commissioners agreed with the establishment of safety standards, though most of them tended to argue against the necessity for anything as drastic as *legislation* on this count. The protection of operatives from dangerous machinery was not something that could be objected to on principle, but there was a general vagueness about precisely what could be done in this regard, partly perhaps because no one serving on the Commission had a very clear idea of the working of industrial machinery. Most of the millowners and managers interviewed – though not all; even in these ranks there was a plurality of voices – seemed to be in favour of millowners deciding, in a body, what the provisions for worker protection should be. From the opinions solicited from most millowners by the Commission, it seems clear that the danger of loss of lives or limbs was not considered very high. They asserted repeatedly that machinery was every bit as well protected in India as in England, that accidents were minimal and unavoidable, and that operatives generally had nothing to fear from mills.

There were other voices among the witnesses before the Commission that articulated a less optimistic picture of mill conditions, though, and even in the evidence of those who were basically opposed to governmental interference, specific details emerged that contradicted a roseate vision of smoothly administered, safe workplaces. Piecing together details from various testimonies before the Commission, it is possible to see, against the will of both interviewers and interviewed, a picture of concrete mill conditions emerging that was plastered with intimations of danger, death, injury and disease.

Consider, for instance, the testimony of Shavakshaw Dhunjeebhoy, who served as Secretary to the Alliance Spinning Company between 1866 and 1872. Firmly opposed to factory legislation, he nonetheless confessed, when asked about conditions of ventilation inside mills, that the heat was intolerable. 'If I go in, I can't stop there for a quarter of an hour.' Temperatures of work were 90° F in the hot weather, and as much as 95° F in the card-rooms and spinning rooms. (Other witnesses before the Commission testified that this could be higher, over 110° F at times). Inside the blowing-room, cotton dust endangered the respiratory systems of operatives, who had to work with a cloth over their mouths. The one exhaust-fan in the blowing-room of this mill was blocked.[17] Temooljee Dhunjeebhoy, the manager of the Alliance Spinning and Weaving Mill, offered an explanation for the absence of ventilation: rooms had to be kept hot and dry because the entry of damp would break the cotton thread.[18] This instantly opens a window upon a set of complicated motivations. For millowners and managers, it was obviously economical to keep temperatures artificially high. For workers too, given that they were paid by the piece, the compulsion to finish work on time or before time meant that ventilation might actually interfere with their earnings. The structure of rules in the cotton industry therefore pitted the health of the operative against her income-earning capacity, not a fact acknowledged by most observers.

[17] Proceedings of 3rd Meeting of Bombay Factory Labour Commission (BFLC), 28 April 1875, in Home Judicial, January 1880, nos. 9-94 and K.W, NAI.
[18] Proceedings of 4th Meeting of BFLC, 5 May 1875.

Ventilation was clearly an object of some concern, though, and many of the witnesses called before the Commission testified to the horrendous risk to health the operatives faced as a result of badly ventilated work-rooms. The carding and blowing rooms appear to have been especially dreadful, since cotton dust and fluff floated about freely. The thought of children of seven working from the early hours of dawn till late evening in these conditions evidently struck something of a chord in the Commissioners, as it clearly did in many of the witnesses, including some of those aligned with the interests of the mill industry. However, the strength of the claim that to interfere legislatively with ventilation would be to limit the efficiency of mills seems to have hung silently over the considerations of the Commissioners. In the final report, there is a lukewarm note to the effect that mill ventilation is unsatisfactory and inconsistent, but there is no suggestion made for concrete improvements in this regard. The micrologic of economic efficiency seems to win over the need for a safe working atmosphere. However, this is not a comfortable victory, and the issue was to return repeatedly to haunt future deliberations on factory reform.

The air breathed by operatives, and the temperatures in which they worked, then, constituted one area where the relationship between the worker and the mill was identified as marked by danger and vulnerability. In petitions for factory reform in later years, as well as in some contemporary newspaper reports, this was to be a constant source of worry. The working class's capacity to reproduce itself, the tendency of the bodies of workers to be wasted and stooped with fatigue and disease at a tender age, and the harsh scaling down of the lifespan that workers could expect, were all addressed, inside and outside official documents. However, this was not a subject opened to the legislative gaze in the early years of factory regulation. Part of the reason for this might have been that the precise relationships between causes and effects were difficult to identify, and this difficulty made the justification of regulative interference a problem. One could speak of respiratory diseases caused, as contemporary medical wisdom saw it, by the inhalation of cotton fluff and dust, but these

were diseases that supposedly took their toll gradually. They weren't, by and large, the subject of dramatic events that forced people to make a connection between concrete practices inside mills and their consequences. More often than not, mill work itself would be identified as damaging to the worker's health, but the specific sources of danger were seen as inchoate, multiple and diffused.

Matters were different with accidents. Here was a concern that could be tied specifically to a single problem – the inadequate protection of machinery, and by implication the inadequate regulation of the relationship between the worker's body and the machine. In the minutes of the 1875 Commission, this is a constant theme. Unlike ventilation, machinery is conceived of by the Commissioners and their witnesses as a ground upon which the necessity or otherwise of legislation is something that can actually be argued about. The danger of accidents occupies a privileged space in the construction of the worker's vulnerability. Here there are concrete instances of the mill acting violently and dramatically upon the worker, depriving him or her of a hand, a leg, a finger, an eye, a life.

Accidents can be read as events within the life of a mill. They can also be read as *narratives.* A person is injured under such circumstances at such a time, the cause of the accident is this or that, the responsibility lies here or there, and this can be prevented in such a manner. There are elements here of a dramatic narrative, centred around a propulsive event, but also elements of a *diagnostic* narrative along the axes of medicine, law or history: a chain of causality is identified, and a structural origin found for the accident – the employer's or employee's negligence, or the fault of the machinery. The point of discovering a structural origin is to explain the unique character of an accident as something that is by definition freak, but also in its nature repeatable, and repeatable because of a certain pattern of causes and conditions. The accident is loaded with this dialectical ambiguity, and this fills out its narration.

The relevance of these observations shall become evident when we move on to consider the production of knowledge around accidents in the 1880s, at the beginning of the era of factory inspection. The 1875 Commission contains some similar traces, but obviously the few accounts of accidents in it are less detailed than in the quarterly reports that factory inspectors were to write from 1881 onwards. What makes the mention of accidents in the 1875 Commission significant is what makes all the evidence in that document significant: its newness. As with the age of children, as with the hours of work inside factories, this was the first time that accidents and machinery were entering a quasi-official gaze.

Nusserwanjee Dadabhoy, the Acting Manager of the Morarjee Goculdass Spinning and Weaving Mill, had also been associated with mills in England, and it shows, for he was apparently familiar with the structure of concerns that framed enquiries into accidents. He admitted that there had been a couple of fatal accidents in his mill, but immediately added that these were due to the carelessness of the hands themselves. He also argued that mills could not be made altogether safe, though the protection of machinery might go some way in achieving that end.[19] Temooljee Dhunjeebhoy, similarly, was quick to attribute accidents to the negligence of workpersons.[20] In saying this, he was articulating a problem that inspectors were to face continually when they examined factories: whatever the safety precautions within mills, an element of danger to the worker always remained and could not be excised. The structure of workplace relations, then, could never be wholly free of a potential space for accusation and complaint, despite all the protestations of industrial amicability that dominate official pronouncements of the time.

Muncherjee Naoroji Banaji, an important Bombay merchant and Secretary to the New Great Eastern Spinning and Weaving Mill, who modestly described himself as 'not exactly' the Manager of this concern, said that legislative enactment was unnecessary, but admitted that if there was danger of

[19] Proceedings of 3rd Meeting of BFLC, 28 April 1875.
[20] Proceedings of 4th Meeting of BFLC, 5 May 1875.

accidents, protection would be necessary. He said immediately afterwards that there was in fact no such danger, but when pressed, conceded that machines in the same room were often placed too close to one another, and some distance between them was required.[21] This concern with the spacing of machinery was also to find expression in subsequent reports by factory inspectors.

Issac Alcock, an engineer in the New Dharamsi Punjabhai Spinning and Weaving Mills, who had been involved in the industry for twelve or thirteen years and had worked at setting up and repairing machinery in England prior to that, found machinery generally as well protected as in England. He pointed out however a specific area of danger in the worker's encounter with the mill: the revolving portions of the machinery, the cogwheels, straps and rollers, were all parts in which the clothes of employees could get entangled, leading to fatal accident.[22] Subsequent commentators were to remark that the clothes worn by Indian operatives, loose-fitting and flowing dhotis in particular, were ill-suited to mill work, and multiplied the dangers to them. Alcock also seemed to think that accidents were unavoidable, due to the carelessness of the operatives, and 'their habit of putting their fingers everywhere'.[23]

Dr. Joseph Anderson, at the time of his testimony before the Commission, was House Surgeon to the Jamsetjee Jeejeebhoy Hospital in Bombay. As such, for the purposes of enquiry into accidents and safety standards in mills, he was clearly a star witness. He revealed that the J.J. Hospital admitted about four or five cases of work-related injury a month, and rejected fourteen or fifteen others, since they were 'not serious'. Serious cases almost always involved amputation or some other manner of operation. Anderson was not asked, however, to describe the nature of 'non-serious' accidents, or to distinguish levels within this category. When asked about the reasons for accidents, however, he gave contradictory replies, which point us in the direction of a serious problem. When asked if accidents

[21] Proceedings of 5th Meeting of BFLC, 12 May 1875.
[22] Proceedings of 6th Meeting of BFLC, 19 May 1875.
[23] Ibid.

always arose from unprotected machinery, he replied, 'Yes, nearly all; and they are always attributed to their own fault.' The Commissioners were apparently not satisfied with this answer, and the question was posed a little later again: 'What do the accidents chiefly arise from?' (Does one hear the voice of Dinshaw Petit, or another powerful millowner, in the anxious reiteration of this question?). Anderson replied, 'From carelessness on the part of the operatives themselves.'[24]

Some time later, Anderson, substantiating his opinion that boys below eight should not be employed in mills, said there was a boy of six currently undergoing treatment at the J.J. Hospital for an accident sustained at a carding machine. A little while later, an anxious or irate questioner burst in while Anderson was talking of something else. 'You said that you had a boy in your hospital suffering from the effects of an accident at a carding machine; but how could that be, since we don't employ boys at carding machines?' (clearly a millowner's voice again, wanting to put the employer's side of the case on record). Audibly rattled, at this point in the interview Anderson backtracks a little and qualifies his statement. 'I cannot say positively that it was the carding machinery, but this I am positive about that the accident occurred at the Great Eastern Mills, and that the boy said he was not working where the accident took place, but had strayed there from his proper duties.'[25]

Anderson's testimony points us towards serious difficulties in the explanation of accidents in mills. In the framework within which the Commissioners and most of their witnesses operated, as generally did millowners and officials alike, there was a tacit understanding that it was possible to tie accidents to a specific cause or set of distinct causes, the regularities of which could be observed, and set aright through regulation. Whether the initiative for regulation was to come from the state or the millowner was a matter of debate; there was, however, an anxious belief that better management practices and more rigorous rules could remove the aberration of accidents from the world of the mill. Rhetorically

[24] Proceedings of 4th Meeting of BFLC, 5 May 1875.
[25] Ibid.

at least, it was necessary to hold on to this. Most of the people who testified before the Commission were willing enough to admit the necessity for the adequate protection of machinery.

This rhetoric, which treats accidents as isolable events within the space of the mill, is pierced however by other arguments. One of these can be summed up in the statements that run through the testimonies of millowners and managers as well as through much inspectorial discourse: 'accidents are caused by the carelessness of the operatives', or 'they put their fingers everywhere', or 'that boy was where he shouldn't have been'. These and similar statements set up an alternative web of causal reasoning. If mere technical fault or unfenced machinery is not at the heart of accidental injury, then the fault must lie with the worker. But what, if we examine the life of a mill more closely, did this fault consist in?

The real source of anxiety crystallized in the accident, I would argue, is that accidental injury is *not* something that can be regulated away from the life of a workplace, though its possibilities can be greatly reduced. To do away with possible sources of accident would involve the exercise of complete control over the physical space of a mill and the actions of those working in it. But work and space were never so neatly configured inside a factory. Despite the fatigue of industrial labour, men, women and children would periodically leave their machines to their neighbours, and go out for a wash or a smoke, as inspectors' reports frequently describe. They would spit on the walls, despite the instructions of their superiors – this would be a constant source of complaint in the mid-1880s. Children would stray away from the bobbins where they were employed in the labour of 'doffing'[26] and go near the much more dangerous carding engines, or hoists and teagles while in motion. Workers would, while at work, bend between closely spaced engines in motion to gather cotton

[26] This appears to have been the dominant form of child work in the mills, involving the process of replacing full bobbins with empty ones on the intermediate and roving frames to be filled with processed cotton, and placing filled up bobbins on the throstle and mule frames to process further, to spin higher counts. Report of Kharsedji N. Servai, Inspector of Factories, Bombay, no. 28, 11 October 1882, Maharashtra State Archives, General Dept, 1883, vol.3, no. 328, part 1.

they'd dropped, rather than waiting till the machinery stopped – in order not to waste time, which was of the essence if the piece-work assigned was to be completed and the corresponding wages to be earned. The worker's mobility within the mill could not ever be fully controlled.

Tragically, the point at which the worker's assertion of agency inside a mill is made public is precisely the point at which she loses an arm, a leg, or her life to moving machinery. This is the point at which the employer or manager's attempts to economize on time and space – by working machinery for excessive amounts of time, by placing machines very close together – encounter the worker's attempts to negotiate this very time and space, to reorder it on her terms. It is at this moment of encounter that the tragic drama of an accidental injury, minor or major, is enacted.

As for the other, more structural reasons for the occurrence of accidents, there is ample evidence in the Factory Commission of 1875 that can furnish plausible explanations, though it is not construed as such by the Commissioners. Many of the testimonies point to the fatigue of industrial work. The continuous running of machinery necessitated long periods of work without a break. Breaks could, of course, be negotiated if one's neighbour took over one's labour for a while, but there was no system of leisure time at work in the mills. All the work was done standing up, and this was conjoined with extremely hot temperatures, stifling air, and cotton dust and fluff flying about freely. D. Henderson, engineer to the Indian Press Company at Colaba, put it bluntly: labour in cotton presses involved excessive fatigue, and this killed the workers.

Had the Commissioners chosen, this could have been part of the causative chain constructed to explain mill accidents – there was certainly evidence to this effect. But the various segments of danger and vulnerability in the mills – long hours of work and fatigue, killer machines, potentially dangerous economies of time and space in search of profit – were hermetically sealed off from one another in the construction of the Commissioners' proceedings, and their subsequent report. It is

also revealing that the questions about accidents and danger were invariably posed to employers, managers, and doctors, but never to mill operatives themselves. None of the few workers interviewed by the Commission (and that too, in the case of many of them, in the presence of their employer Dinshaw Petit) were asked questions about the nature of the accidents that befell them at work.

Machinery and Accidents

> ***Whilst the engine runs the people must work – men, women and children are yoked together with iron and steam. The animal machine – breakable in the best case, subject to a thousand sources of suffering – is chained fast to the iron machine, which knows no suffering and no weariness...***
>
> (from **The Moral And Physical Conditions of the Working Classes employed in the Cotton Manufacture in Manchester**, by James Phillips Kay, 1832).[27]

Most textile machinery in Bombay came directly from England, and was consequently expensive. Millowners, faced with this structural constraint, as Rajnarayan Chandavarkar has shown, deployed a range of strategies to economize on their costs. One of these strategies was the use of old and partially or wholly unguarded machines. It was not unusual for capitalists to buy scrapped equipment, or to simply run the plant they had inherited or bought without making any changes in the machinery used.[28] In a highly competitive environment, with a number of enterprises facing periodic capital shortages, short-run calculations were crucial, and major investments in new machinery were more

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[27] Cited in Humphrey Jennings, edited and compiled, *Pandaemonium: The Coming of the Machine as Seen by Contemporary Observers*, London 1982.
[28] Rajnarayan Chandavarkar, *The origins of industrial capitalism: Business strategies and the working classes in Bombay, 1900-1940*, Cambridge 1994, pp. 279-280.

often than not precluded. It was not uncommon, when such investments became unavoidable, for entrepreneurs to replace specific, damaged parts, rather than the whole machine.[29] This is the context in which the relationship of machinery and the human beings who worked them must be surveyed.

Inside a mill, raw cotton passed through several processes of refinement, and each of these involved a particular negotiation of risk-laden machinery by the worker. The industrial production process began inside what was commonly called the blow-room, where two machines were worked – the opener and the scutcher. The cotton was initially passed through the opener, and received by the scutcher, the function of which was to beat the fibre clear of dirt. A report of 1891 (which is the basis for the description of machinery in this section) observes that mill-hands not infrequently left the guard off after cleaning this machine.[30] If this was indeed common practice, perhaps the explanation might be found in the nature of the space in which the scutcher was worked: the blow room, we must recall, was characterized by intense, almost unbearable heat, and the flow of cotton dust and fluff through the air, which may well have caused poor visibility. It is possible to imagine mill-hands wanting to finish the work as quickly as possible, and an inefficient guard that hung loose on an old scutcher could have been a major source of irritation.

The cotton, processed into a roll of a foot or a little more in diameter, was then transferred to the card-room, where labourers worked carding engines to produce a thick tape known as a sliver. The motive force in the carding engine seems to have been a roller that drew the card-sliver out into a fraction of its original size. The guards on the machine were frequently broken, and Bagnell's 1891 report on machinery suggests that tin, rather than iron, was the metal generally used for

[29] Ibid.

[30] Letter from Inspector of Factories, H.W.J. Bagnell, to the Government of Bombay, NAI, no. 148, Home Judicial, March 1891.

replacement.[31] This would have been another source of danger to mill-hands, since tin is a far less efficient protector than iron.

The sliver of cotton that emerged from these exertions of labour and machinery then passed through two or three sets of drawing frames. In the fullest process of production, it passed through first a machine known as the slubbing frame, then an intermediate frame, and lastly a roving frame. However, reasons of speed sometimes necessitated a bypassing of the intermediate frame. In this case, the cotton sliver was passed through a slubbing frame to give it some twist, and transferred directly on to the roving frame (a sliver of cotton, having acquired twist, was known as 'roving').[32] At each stage of operation – and this continued when the spinning process began – the sliver drawn by the machines poured into bobbins where it was wound for its journey to the next stage of refinement. Drawing frames were operated by rollers with cogwheels, working one within the other, where millhands stood and pieced the cotton that was wound round the bobbins. The dangers of unguarded revolving cogwheels were particularly intense, since these were on a level with the knees of workpeople, which were liable to be ripped if caught in them. Through want of repair, the covers of cogwheels in Bombay mills frequently fell off, and the management was not always forthcoming with replacements.[33]

After these preliminary processes of cotton preparation, spinning machines came into operation to spin yarn. These machines were of three kinds: throstles, ring throstles, and mules, of which the last was the most pliable. The carriage of the mule, run by rope-operated wheels, consisted of hundreds of spindles and rotated about five or six times a minute, traversing five feet in and back in the process.[34] The covers over the ropes of the wheels of the sides broke frequently, and given the intensity with which these far from light wheels spun, the absence of a guard here was another

[31] Ibid.
[32] Chandavarkar, op.cit.
[33] Letter from H.W.J. Bagnell, op.cit.
[34] ibid.

potential source of major injury. Throstles and ring throstles produced their own special set of dangers: they involved the operation of steel flyers that struck the air as they revolved and wound the yarn on to bobbins.[35] Unguarded flyers could on occasion fly loose, and hit workers in the face or in the eyes.

In the engine-room, which was the space of the next stage in the process of production, rope-gearing for the engines was usually extended to two or three storeys, each containing wheels. Bagnell best describes the dangers of this:

> **The wheels on these upper storeys should, as a rule, be guarded all round with a railing for any one who slipped and fell would be sure to meet with the severest injury. The wheels are oiled from a glass on the shafting of the wheel, and if the space between the wall and the wheel is narrow, the wheel should be guarded over the side with an iron plate....The oilman can then replenish the oil glass in perfect safety. The wooden platforms or galleries where these rope wheels revolve should also have railing on both sides at right angles to the walls to prevent oilmen and engineers from slipping over the sides down into the ropes revolving below where they would get cut to pieces in a very short space of time.[36]**

Once again, then, multiple dangers beckon the worker. The space between the wall and the wheel, the wheel without a railing, the platforms where it revolves – all these could potentially, and sometimes did in reality, kill. In similar fashion, the worker experienced vulnerability in his relationship with the hoist, a crane that carried cotton up from card-room to spinning-room, and the worker from one storey to another. Mill-hands, observed Bagnell, would often not use the gates to the hoist, if any. In England, two kinds of protective strategies worked at this stage of production. First, there were roller gates that would shut automatically once the worker was inside the hoist.

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[35] ibid.
[36] ibid.

Second, the cotton bale was dragged into the mixing room, on one of the top floors, not by manual labour, but by a patent machine. The first device seems to have been unknown in Bombay, and the second was not always used. If not, the bale had to be physically dragged into the mixing room by a worker or two. The danger here was profound. The hoist or crane could, if it over-ran itself, swing the labourer outside the building as he hung on to the heavy bale. If he lost hold of the bale, he stood to fall some 50 or 70 feet.[37]

Sometimes spur-gearing rather than rope-wheels drove the older mills. The cover of this, according to Bagnell, 'is not infrequently taken off for repairs or cleaning and then not put on again through the carelessness of the engineer....Accidents have happened in which workmen, when at work on some part of the machinery surrounding these wheels with the wheels themselves unguarded, have fallen between the little and big cogwheels and got cut in half.'[38]

In a day's labour, then, the worker negotiated almost innumerable dangers to body and life. The space of the mill related to the labouring body as an external imposition, with rules set by higher authority and perhaps not always fully comprehended. The quotations cited from Bagnell's report mention working-class carelessness in this negotiation as though it were some kind of independent variable, and this seems, as we shall see, to have been the practice in much inspectorial discourse. However, carelessness in many cases may have been directly linked to fatigue, for the work described above was immensely tiring. The processes through which the individual worker had to pass in the course of a day were many, and each one seemed to involve her needing to deliberately devise strategies to save her life and body. After over twelve hours of grueling work, the imperative to protect one's personal safety may have slackened through sheer exhaustion. A single slip could be fatal.

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[37] ibid.
[38] ibid.

'Carelessness' might equally plausibly have flowed from the practices of employers, in their attempts to make economies in the production process. Very often, machinery in Bombay mills was worked extremely fast, in order to produce quicker. The speed of the machines could take their toll in many ways on a worker's strength, his stamina, and his vision. Equally, the compulsions of piece-work necessitated a maximization of speed and effort in order to earn a living wage. There is no evidence for this, but I am willing to hazard a guess that piece-workers may have constituted the bulk of accident victims. Finally, the reluctance of employers to deploy labour-saving devices was what generated so much employment in mills. It was also a source of physical danger, for it intensified labour inside the factory to the point at which it was bound to sap the strongest of bodies.

As accidents began to become incidents of dramatic and propulsive significance, they began to be reported in more depth. From about 1883, as the Government of Bombay began to veer towards a slightly more interventionist ethic, inspectors began to seriously try and disentangle the meanings of accidental injury in their reports on individual mills, as well as in the quarterly reports they submitted to the Government. In 1883, the second year of the running of the Act, the anxieties crystallizing around events of accidental injury seem also to have flowed from the fact that this was one area where the Act seemed not to be working with good effect. Child labour had clearly been dramatically cut down upon by a number of mills, and at this stage intervals for food and rest appear to have been granted by millowners without very much fuss. Much of this might be illusion, of course. Both child labour and intervals from work were extremely difficult to monitor, given the lack of frequency of government inspections. Serious accidents, on the other hand, had a relative lack of ambiguity about them. It may well be the case that a large number of accidents weren't reported, but those that were still signaled reasons for worry. In 1883, 182 accidents were reported in Bombay Presidency. However, inspectors had also been instructed to inquire into accidents happening in factories not subject to the Factory Act, and this, as we shall see later, propelled arguments about the necessity for the extension of legislation.

Inspectors' reports worked to disturb the stability of existing safety provisions in two ways. They provided reasonably detailed accounts of accidents, and this disturbed the regularly made pronouncements that all was well with factory regulation. They also, perhaps more importantly, multiplied the named sources and forms of danger of accidental injury. Each report of an accident seems to chalk out a new possibility of death or pain in the worker-machine relationship. At the same time, the causal explanations devised for accidents seem designed not to probe structural dangers to workers, but to furnish the blandest and thinnest of narratives. This was the tension that dominated the reports of inspectors, and the kinds of knowledge about accidents they produced. Let us consider the narrative structure of such knowledge in more depth.

Reports of accidents in the early 1880s addressed, primarily, the question of *responsibility* for such accidents. In England, at around the same time, the general principle of employer liability was being established. The principle that authorized this was that the employer, since he set workers to work, could be held responsible for injuries that happened to them in a general sense, whether or not specific blame attached to him in individual instances. Indian safety laws – and, by implication, inspectors' reports – seem to have been dominated by an anxious evasion of this principle. In the broader narrative of accident law in India, the principle of workmen's compensation was achieved (in 1928) without having to pass through the stage of recognition of direct employers' liability, a recognition that was very threatening to industrial relations. However, in the period that this paper examines, there seems to have been little talk of establishing a general principle of adjudication in cases of workers' injury. The technique of adjudication – if it can be called that – was thoroughly piecemeal and empiricist. Individual cases were reported, and an often half-hearted attempt was made to identify responsibility.

Equally significantly, no direct guide to *action* accompanied the identification of responsibility. The inspector, in most cases, was handicapped by the limits of factory law. He could order the fencing of machinery, and prosecute employers who violated his orders. He could take employers to court for failing to report accidents. But there was no mechanism in place to adjudicate the actual accident, at the point where adjudication of some sort might have been necessary. In the absence of any principles of adjudication, but in the countervailing presence of an increasingly large body of evidence about accidents, it seems to me that the inspectorial report takes on particular significance, serving as a placeholder for more effective forms of judgment and pronouncement. The quarterly reports of inspectors furnished narratives of accidents that also sought to determine the precise relation of cause and effect. No general principles of causality that held good at all times could be securely established, however, and this is at the very heart of the tensions of inspectorial discourse.

Consider two kinds of accidents at work. In the first, a thin relationship of cause and effect was established, however tenuously, by inspectors' reports. Three possible explanations circulated through descriptions of accidents in this case. In some cases, inadequate fencing of machinery was blamed. So it was at the Jivraj Baloo Spinning and Weaving Mill on 18 October 1883, when a man's hand was caught by the cogwheels of a hydraulic press, and the inspector ordered guards on these wheels.[39] Notice that while the responsibility in this case implicitly attaches to the employer, no such statement is actually made by the inspector. The second, and far more frequently deployed explanation, was that the millhand was 'careless'. For instance, a man working at the Sassoon Spinning and Weaving Company's factory at Mazagaon suffered a serious accident on October 4, 1883. His hand lapped around the shaft of a machine, and his thigh was jammed between two jack frames. The inspector explains: 'No blame can be attached to the proprietors as it was clearly carelessness on the part of the man employed.'[40] Equally frequently, the inspector simply stated that although the accident had happened, no guard was practicable. So on 12 November 1883, a man

[39] Quarterly Reports on Factories ending December 1883, MSA, G.D., 1884, vol.2, no.328, part I.
[40] Ibid.

working at the Alexandra Press at Chinchpokli, while oiling a cylinder shaft, had his hand caught by the driving shaft of a carding engine. At the Alliance Cotton and Silk Manufacturing Mill at Tardeo, in December 1883, a man's hand was caught by a circular saw. In both cases, the Inspector reported: 'No fence practicable.'[41]

These three narrative strategies follow different trajectories: the first emphasizes the absence of guards on machinery, the second blames the worker for his injury, and the last eschews blame and responsibility altogether. The ambiguities of this last strategy, I believe, flow from some of the tensions in the conception of an accident that I explored in reference to Figlio's arguments, earlier in the paper. An accident is properly defined as freak chance, unpredictable and uncontrollable. If this is taken seriously, there can be no real responsibility in case of an accident. On the other hand, accounts of mill accidents perpetually run up against the need to explain, to blame, to adjudicate, for work-related accidents happen within a structure of social relationships and power, and conditions of employment come under the explanatory gaze whenever an accident occurs. In the cases I am examining, this is overdetermined by an evident anxiety that the culpability of the employer should be minimized, that the millowner should not be made the agent of danger in structural explanations of accidents.

How much of this, one wonders, has to do with the descriptive depth of individual reports by inspectors? In a large number of cases, the argument that 'no blame attaches to the owner', in effect, that either the worker is responsible or that the accident was unavoidable, follows a short and tantalizingly unsatisfactory account of the injury. 'Hand caught in carding machine', 'fingers injured', 'arm jammed in roller' – telegraphic phrases like these scatter inspectorial reports. However, more detailed accounts raise other and more disturbing kinds of questions.

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[41] ibid.

On 18 June 1884, a boy slipped on rollers while cleaning out a water trough at the Chanda Ramji Hemp and Jute Mills at Colaba. He broke his foot.[42] At the Blue Mill at Chinchpokli, on 17 October 1884, a man who was strapping the pulley of a carding engine missed his footing and was thrown on to the next, dislocating his arm and bruising his eye. A horrific incident that occurred on 26 November the same year was reported from the Sunderdas Spinning and Weaving Mill on Grant Road. A boy 'for some unknown reason' went underneath a rim throstle while standing. The machine started, and 'something was noticed going wrong'. Upon stopping the machine, the boy was found with his leg crushed between the rollers. 'He died on 1 December 1884. No blame attaches to the owner.'[43]

Similar stories multiplied through the pages of inspectors' reports. On 24 October 1884, at the Nicol Mill in Colaba, a man who was replacing a stud on a coupling bar stood on the mule carriage, setting it in motion to test the stud. He was caught between the carriage and the roller beam. He was sent to the hospital but left it soon after, and died at home after two days. 'No blame attaches to the owners.'[44] At the Manockjee Petit Manufacturing Mill in Tardeo, on 12 October 1884, a boy was standing and cleaning a roving frame. The man in charge of the machine, not noticing him at work, started the frame. The boy lost four fingers. 'The owners are not to blame.'[45]

In these tragic accidents, all the inspectors seem to be certain of is that the owners were not to blame. Nor is this simply explicable by a desire to whitewash capital of all responsibility for death and injury. On occasion, inspectors could take up fiercely anti-millowner positions. I suspect there is a genuine failure of comprehension and explanation at work here, stemming from the very nature of work in the mills. There is no obvious sense in which the boy who accidentally went under a mill

[42] Quarterly Reports on the Inspection of Factories ending 31 December 1884, MSA, 1885, G.D., vol.3, no.328, part III.
[43] Ibid.
[44] ibid.
[45] ibid.

throstle owes his death to the owner of the Sunderdas Mill. The man at the Nicol Mill who lost his life was testing the efficacy of his own work; it is quite possible that no one ordered him to do so, and to stand in the precarious position that he did. The boy who lost his fingers to the roving frame at Tardeo could blame the negligence of the man who started the machine, but this was in no sense the fault of management.

But neither do the alternative explanations offered by inspectors – that the root cause of such injuries were acts of carelessness on the part of operatives – hold very much force in instances like these. A man losing his footing in the middle of grueling non-stop work is hardly 'careless'. Nor is a boy who accidentally loses his balance on a roller. What accounts like the ones immediately above suggest is the necessity for a deconstruction of attributes like 'carelessness'. How much carelessness resulted from fatigue? How much from dizziness? Inspectorial reports never address these issues. Instead, carelessness is named as a root cause. And when this is clearly inapplicable, the final resort – to state that 'no fencing is possible' is deployed. In certain cases the impossibility of fencing may allude to the millowners' reluctance to raise costs. In other cases fencing may genuinely have been impossible if the machine was to work. But what were the implications of this impossibility? Might this not reveal something about the nature of mill work itself, something that cannot be contained comfortably within explanatory and remedial strategies? To explore this, it is necessary to consider a last, fairly random sample of reports of accidents in 1883 and 1884.

On 21 July 1883, a 13-year old boy named Mamoochand, a day labourer, was killed at the Jivraj Baloo Spinning and Weaving Mill. His clothes were caught about a shaft, and he was knocked about and severely injured on the head. His left arm was broken. A couple of weeks later, he died in the Sir J.J. Hospital. No serious enquiry seems to have been made; certainly no inquest was held. Now consider the footnote to this account in the inspector's report: 'From enquiries it appears that the boy was not an employee of the mill but one of the persons engaged for the day to sweep some parts of the

building. The boy strayed out and came by the accident.'[46] The fatal injury, then, happens at the point when the prescribed arrangement of machinery and people in relation to one another is disturbed. Machines could, in certain contexts, threaten not just those who worked them, but those who worked around them – the radius of danger extended beyond the immediate workman-machine configuration.

To evaluate the significance of this, consider a few similar cases. On 18 December 1883, at the same mill, the Jivraj Baloo Spinning and Weaving, a boy's hand was caught in the roller of a machine. The report tersely remarks: 'The boy had no business in the room and no guard is possible.'[47] A couple of months earlier, on 9 October, at the Essa Bin Khalifa Mill at Parel, a 13 year old boy fell down from a cotton bale where he was playing in the recess hour, and injured his left leg.[48] On 11 Novermber 1884, another boy, playing near a mule in motion, sustained injuries to his fingers from an unguarded wheel.[49] On 27 August the same year, in the Mahalakshmi Spinning and Weaving Mill at Mazagaon, passing by a blow room in which he was not working, a boy 'carelessly' placed his hand in the scutcher. It was caught by rollers, and the boy's hand had to be amputated.[50]

Finally, to conclude this sample of cases, take an accident that happened in the Oriental Spinning and Weaving Company at Tardeo on 16 October 1883. The injury to the boy was reported to be slight, but consider the wording of the evaluation that follows. 'This is not a mill accident. It happened to a boy not employed in the mill. This ought not to have been reported as the accident was not caused by machinery.'[51] Precisely what caused it is not made clear.

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[46] Quarterly Reports on Factories ending September 1883, MSA, G.D., 1884, vol.2, no.328, part I.
[47] Report of Inspector of Factories, Bombay, for quarter ending 31 December 1883. MSA, G.D., 1884, vol.2, no.328, part I.
[48] ibid.
[49] Detailed Reports on Inspection of Factories for quarter ending 31 December 1884, MSA, 1885, G.D., vol.3, no.328, part II.
[50] Ibid.
[51] Report of Inspector of Factories, Bombay, for quarter ending 31 December 1883, op.cit.

There is a pattern that runs through the cases described above. In each of these cases, the boys who were injured, whether gravely or fatally or negligibly, had 'strayed' beyond the terrain prescribed for them within the space of the mill. A sweeper came too near a machine, a boy played where he shouldn't have, another put his hand where he shouldn't have, and in the most enigmatically reported of the cases, the last one mentioned, a non-millhand sustained injuries from cause or causes unreported. What does all this signify?

Mills operated through particular arrangements of space, particular constructions of the relationship between workers and their surroundings, especially the machines they worked. In a hypothetical mill where this relationship was perfectly configured and each worker was efficiently bound to his prescribed place of work, there was still danger of accidents, from unguarded machinery, from fatigue, from bad light and visibility, and of course from carelessness. But in most cases, this configuration was not achieved at all, except perhaps at moments when work intensity was at its highest. Given the enormous length of the working day, it was obvious that workers would at certain points construct their own relationships to the space they worked in; appropriate it, as it were. An upper storey could become a place for a child to play in. Workers could and did leave their designated spaces to speak to one another, and in the process perhaps lost concentration and strayed too near an unguarded machine. A vast and unpredictable range of practices constituted the worker's relationship to the space of the mill. What this meant was that the sources of accidents were never entirely controllable. As the worker stamped his or her presence upon the work-space, new territories of danger and new sources of vulnerability were created.

There is an anxiety within inspectorial discourse that is most evident in the last instance I described. 'This ought not to have been reported as the accident was not caused by machinery.' What constituted a 'legitimate' accident, in that case? When a wall fell in on a worker, as happened in one instance, that was not a case of machinery at fault. When a boy fell from an upper storey, the

relationship with machinery was equally tenuous. There were hundreds of potential sources of danger that were not directly associated with machinery. The role of the inspector, then, was not perhaps limited to a determinate set of accident scenarios that could, discursively at least, be regulated by the established conventions of narrative causality. The shaft was unfenced so the boy died; the cogwheel was unguarded so the man tore his knees...these explanations suggested a closed narrative structure. A cause could be identified, its effects generalized, and its regularities empirically observed. From these observations, possible remedies could be suggested. But with the kinds of cases I have described above, this structure of causality did not operate. The sources of danger, if these accidents were to be taken seriously, were endless, and multiplied endlessly. This is why the inspector in question was so anxious that the accident 'not caused by machinery' should not be reported as an accident.

If the causes and remedies of accidents did not suggest themselves automatically in all cases, this potentially deepened the sense of danger. As long as causes could be named and generalized, accidental injury was, in theory at least, controllable. However, if new propulsions of experience burst the boundaries of explanation, if accidents stemming from previously unnamed sources periodically forced themselves upon inspectorial attention, the mill itself had to be named as a space of constant danger. Paradoxically, the sense that not all dangers could be regulated away was not necessarily a mark of the limits of legislation. It was also a signal that the process of regulation, however inadequate, could not be blocked off for once and for all by statute. Since reported dangers to workers multiplied at the time of each quarterly report, perpetual vigilance was necessary, and new strategies for addressing accidents needed to be devised constantly.

Encounters

A Controversy Regarding Fencing

Shortly after the passage of the Factory Act, the Collector of Bombay, H.E. Jacomb, set out in his new capacity as Inspector of Factories to investigate working conditions in mills in the town. He was accompanied by W.O. Moylan who, as Inspector of Steam Boilers and Prime Movers, presumably already had some acquaintance with factories. This is a significant moment in the industrial history of Bombay, since it was the first time that premises over which capitalists had previously held unchecked sway were opened to the scrutiny of the state. There was, evidently, scope for tension in this encounter, despite Jacomb's protestations that he anticipated no problems in the functioning of the Act. In the report he forwarded to the Bombay Government, Jacomb stressed the need for prompt enquiry into accidents, and the distinguishing of preventable from unpreventable cases.[52] It was Moylan's memorandum on the fencing of factory equipment, however, that was to be at the centre of the first controversy between inspectors and millowners that broke out in the age of factory regulation.

Moylan's note focused exclusively on one point – the organization of physical space inside the mill, and the distance, or lack of it, between machines. The carding rooms and the mule rooms were singled out for particular critical attention. He noted that millowners preferred to place machines very closely together with a view to economizing room, an important consideration if expense was to be minimized. Moylan acknowledged the legitimacy of this: 'it would entail a heavy expense upon millowners to widen the open spaces by moving the machines, and some of them would necessarily have to be thrown out of use in each mill, entailing loss to business'.[53] He enjoined care and caution

[52] No. 431, Bombay, 4 October 1881, M.S.A, G.D, 1881, no.328.
[53] ibid., appended memorandum by W.O. Moylan.

upon workpeople in the mill, rounding this off with a stereotype about Indian millworkers. '…as a rule, native operatives are less cautious than English ones in avoiding dangerous contact with the gearing of the machinery, the superior intelligence of the latter enabling them at once to perceive and estimate real danger and to avoid it.'[54] Given this perceived contradiction between the propensities of Indian operatives and the interests of capitalists, Moylan suggested a compromise, to the effect that the passages at one end of the machinery could be closed up by means of a rail or iron grating. These passages, he observed, were used by workpeople as short cuts from one side of the room to another. (Moylan did not, of course, make the other connection that was there to be made, that given the piece-work rules of mills in Bombay, workpeople were likely to take every opportunity of economizing on work-time, even at some risk to themselves.) Given this practice, it made sense, he argued, to block entry and exit at one end of the machinery.

In accordance with Moylan's suggestions, Jacomb sent out a circular of instructions to millowners in the Presidency.[55] He was followed by the Inspector of Factories for Thana, the Collector of that district, who on 22 January 1882 circularized Thana millowners, instructing them to, first, close up passages between carding engines with a moveable iron rail while machines were at work, and second, to place a moveable guard of block tin on the headstocks of the mule. Rail and guard cost about Rs. 2/- each.[56] This order was to become the site of a revealing confrontation between officialdom and capital.

The manager of the New Dharamsi and Punjabhai Spinning and Weaving Mill, C.E. Wilkinson, appealed against this instruction to G.F. Sheppard, Commissioner of the Northern Division of the Bombay Presidency. The appeal, made on 31 January, was rejected, but Sheppard agreed to forward the documents of the case to Meade-King, upon his arrival in India. Wilkinson, along with other

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[54] Ibid.
[55] no.4, 10 January 1882, Bombay, M.S.A, 1882, G.D, vol.1.
[56] no.1492, 29 April 1882, Thana.

millowners, seems to have seen this as a major opportunity to press the case against Moylan's instructions about fencing, for he went about assiduously collecting support for his viewpoint. In mid-May, he wrote to the Bombay Government, enclosing a number of letters from prominent industrialists and managers, and requesting that these be forwarded to Meade-King, for consideration in this case. Wilkinson marshalled his resources well; he could boast the support of the directors of the Framji Petit Company, the managers of the New Great Eastern Mills, the Hindustan Mills, the Sassoon Mills, and many other luminaries of Bombay's industrial landscape.[57] Within a week of the Bombay Government's receipt of these appeals, Meade-King considered the case and pronounced judgment.

Meade-King, who was by no means unsympathetically inclined to mill operatives, as his report amply demonstrated, began his pronouncement with stock phrases about the paramountcy of the safety of workers. He went on to uphold Wilkinson's appeal, on the grounds that the spaces sealed off by the guards suggested by Moylan had never, in his experience, been the source of accidents, either in England or in India. He also, however, made a very revealing statement:

> **...we must not lose sight of the fact, nor should the operatives themselves for one moment forget that *all* machinery is dangerous, and to render it absolutely free from danger would, in many cases, have the effect of making it useless to its owner. The means therefore of protecting operatives from the dangers of machinery must of necessity be limited.[58]**

Danger, then, is constitutive of the very experience of industrial labour, and is not something that can be wished away by regulation and efficient safety provisions. This disturbing admission lies at the heart of Meade-King's judgment of the case. Strictly speaking, the admission is not called for by the case, since Meade-King goes to great lengths to state the absence of danger either from the passages

[57] Letter from Manager, New Dharamsi and Punjabhai Spinning and Weaving Mills, 16 May 1882, M.S.A, G.D, vol.2, 1882.
[58] From W.O. Meade-King, no.13, Bombay, 22 May 1882.

between carding machines or from unfenced headstocks. However, the unavoidability of danger is conceded, and conceded in no uncertain terms. Meade-King also goes on to observe that it is no use placing a moveable rail 'in passages through which – to use Mr. Moylan's own words – operatives will, if they cannot walk, crawl and creep on their hands and knees.'[59] The movement of workers within the space of the mill, too, cannot be regulated beyond a point. The physical space of the mill, then, is loaded with danger no matter what precautions are taken. Perhaps this admission might not have carried so much weight in times before factory inspection was put in place. But in a time when accidents of a spine-chilling nature were being brought to the attention of the state in every quarterly report on the inspection of factories, an admission like this, pointing to the structural embeddedness of the worker's vulnerability in the nature of industrial work, carried new anxieties with it. These anxieties flowed from the sense that accidents posed a riddle that couldn't be properly answered.

For the moment, though, millowning interests had won the first round after the passage of the Factory Act. The strength of the support marshalled by Wilkinson was a measure of the strength of organized capital, when it chose to rally behind an individual capitalist. Meade-King was clearly impressed by the argumentative and political resources Wilkinson could muster, and he paid rich tribute to the knowledge and experience of several of the managers and proprietors whose letter of support Wilkinson had forwarded to him. The issue of safety regulations was marked out by this little episode as a potential battleground, and the conflict in this case was resolved fairly comprehensively in favour of capital.

A Small Death

In the middle of February 1882, a boy of 15 named Radhoo Saitoo set out to work at his place of employment, a bone-crushing mill owned by a Mr. John Stuart. It was five in the evening when he

[59] Ibid.

began his work, which consisted of gathering imperfectly crushed bones from under the crusher. The factory, employing as it did less than 100 hands, was not subject to the regulations of the Act. Even if it had been, Radhoo Saitoo would not have come under legislative protection, since at 15 he was technically an adult. The law authorized no intervals from work for him, and he was on night duty. It is not difficult to imagine the proportions the machine must have come to occupy before Radhoo's tired eyes in the small hours of the morning.

It was seven the next morning. Radhoo had been working since five the previous evening, or fourteen hours at a stretch. Had he taken any breaks in the middle? Had he eaten? We shall never know but we can guess. What we do know is this. At seven, one end of his dhoti got caught in a cog wheel that was partially unguarded. The dhoti, as observers of factories had noticed, is not a garment that is conducive to work amidst fast-moving machinery. A single mistake can be fatal. And so it was. The boy's body was carried over the wheel. At seven in the morning, Radhoo Saitoo's bones were crushed in a bone-crushing mill.

Thomas Blaney, the Coroner of Bombay, held an inquest on the boy's death on the 24th of February. Blaney has appeared earlier in this paper, as a member of the 1875 Factory Commission. He was one of the only two Commissioners to support factory legislation, and he periodically appears in the records of factory regulation in this time, as one of the more humane voices on the issue. Blaney was clearly appalled by this incident. After the jury returned a verdict holding unprotected machinery responsible for Radhoo's death, Blaney got in touch with Jacomb, the Collector, to plead for the extension of protection to small factories. Jacomb replied that his hands were tied; factory law did not apply to establishments employing less than a hundred hands. Blaney now wrote to the Judicial Department of the Bombay Government directly. His letter is worth quoting at length.

> **I think it my duty to represent to Government that in my opinion it is these smaller mills which stand most in need of having their prime movers efficiently protected – many, if not most of these mills, work by night as well as by day, and night labour must necessarily be more dangerous than day labour. As in the case of the death of the boy in the bone crushing factory now reported, the deceased was on duty for 14 hours, including the whole of the night. It is true also that the smaller factories in which less than 100 persons are employed are owned by men of small capital and this may reasonably be expected to lead to the use of inferior machinery and to carelessness or indifference in efficiently protecting such machinery. At the present time the number of these small mills and factories are rapidly being multiplied in Bombay, and unless they are brought under the provisions of the Factory Act, it is to be feared that many deaths, which the application of the provisions of that Act would prevent, will probably occur.**
>
> **On a previous occasion, about a year ago, I held a similar inquest on the body of a labourer in a small flour mill in Bahoola Tank Road owned by a Mohammedan. In that case death resulted from the utter want of protection to the fly wheel at the engine.**[60]

In this letter, Blaney made the connections that most of the officials associated with the administration of factory legislation were afraid of making, since they threatened the closures fixed by law upon the definition of factories, the appropriate standards of safety, and other issues handled by the Act. It is a letter that, in simply pointing to a problem the state had a responsibility to address, exposed gaping loopholes in existing factory legislation. Most industrial establishments, after all, employed far fewer than a hundred workers. These factories were not bound by law to protect their machinery from wear and tear, nor to protect their operatives from the machinery. Blaney also makes the causal connections that most explanations devised for accidents in factories steered clear of

[60] From the Coroner of Bombay to Secy of Govt., Judicial Dept., Bombay, 13 March 1882.

making. The boy who was killed was working at night; he had been working fourteen hours at a stretch, in bad light and through fatigue. It was not simply a technical fault in the machinery that caused Radhoo's death; it was the conditions under which he was employed, taken as a whole, that put his life at risk and confirmed that risk by killing him.

Blaney also had his finger on the pulse of the times: he knew that he was living through a momentous period of industrial growth in Bombay. And while the most visible and impressive signifiers of this growth were the vast, brooding chimneys and jailhouse architectural designs of the cotton mills, there were other and smaller establishments springing up beside and around these all the time. Flour mills, wool-cleaning mills, cotton-ginning and grinding mills – and bone-crushing mills – were all inhabitants of a dense industrial landscape. Legislation had been achieved slowly and painfully – no one was more aware of this than Blaney, who had sat with Petit and Goculdas on the 1875 Commission and knew first-hand how meaningless the safety of human life was to the drives of industrial capital. As it stood, legislation protected only a miniscule fraction of the city's workforce. And industry was not going to stand still and wait for legislation to catch up. Even as Blaney wrote, investors both small and large were probably planning the construction of new industries, new factories, new bone-crushers. Blaney understood the urgency of the need for law to address industrial labour.

Jacomb, probably sensitized by his inspections of factories over several months in 1881 and 1882, lost little time in backing Blaney's appeal. On 24 March, he wrote to the General Department of the Bombay Government, reiterating the need for more comprehensive protection of factory workers. He drew attention, in this memorandum, to a history of previous observations of the horror of working conditions in small factories.

> **From a report by the Inspector of Steam Boilers and Prime Movers to the Municipal Commissioner of Bombay no. 55 dated 10 March 1877 on the condition of the small factories on Duncan Road, I find that...some of the factories are erected in ill-lighted dwelling houses or in godowns situated in densely-populated parts of the native town in consequence of which the machinery is so very much crowded that the passages barely admit of the workpeople moving about, without considerable risk to themselves, and the danger would naturally be much greater at night. The danger is, moreover, enhanced when the passages are obstructed by heaps of cotton or wool or bags of grain and flour as they often are.[61]**

Not for the first or last time, the physical organization of the workplace appears as a source of the worker's vulnerability. Jacomb also linked the dangers of accidents, as did Blaney, to the organization of work-time, and argued that unless it was made mandatory for millowners to work their labourers in shifts, the 'fatiguing exertion' of factory work would have debilitating consequences. Workers deprived of sleep would succumb to the dangers of machinery in the absence of regulations of either time or space in factories: 'instances of severe mutilation have occurred by the attendants on machines in motion dropping upon them while in a sleepy state.'[62]

There was strength and eloquence to these demands, which were also being made by men with considerable influence in the city administration. Jacomb, Moylan, and Blaney were three of the most consistent advocates of the extension of legislation to smaller factories, and they were, respectively, the Collector, Inspector of Boilers, and Coroner of Bombay. The pressures they could exert were not negligible. In April 1882, the Government of Bombay resolved that 'it is most desirable that the provisions of the Act should be rendered applicable to the numerous small, ill-built, carelessly

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[61] Memorandum from Collector to General Dept., no. 44, 24 March 1882.
[62] Ibid.

managed, and insufficiently equipped factories to be found in Bombay and other large towns.'[63] The resolution added that the central government should consider amending the Factory Act by making it applicable to establishments with 20 or even fewer workers.[64] It was also decided to forward this resolution to Meade-King, and to request him to investigate small factories in the Presidency, even though this was technically beyond his original brief.

There is evidence that suggests that apart from the unquestionable role of conscience in the campaign spearheaded by Blaney and Jacomb, there might have been other pressures at work, and in particular the pressure of a certain section of public opinion, mediated through the press. On 3 January, a month before Radhoo Saitoo's death, the *Bombay Samachar* had commented on the death of two labourers from 'the poisonous atmosphere of the deep hole in the Government distillery at Dadar', and also on the death of three labourers while cleaning the drain on Frere Road. In both these cases, the paper remarked, the Coroner's jury had entered a verdict that the deceased had 'died from poisonous atmosphere.' This wasn't enough, though, and the jury 'ought to have ascertained in each of these cases by whose negligence the unfortunate occurrences happened and what punishment the guilty parties deserved.'[65] Shortly after Blaney and Jacomb had begun their campaign to amend the Act, the *Yajdan Parast* made similar observations. It remarked on the loss of seven lives due to a roof of a cotton mill caving in, an accident it attributed to the negligence of the Engineering Department of the Municipality, and added to this a further reference to the death of the sewage workers on Frere Road that the *Bombay Samachar* had drawn attention to.[66]

What these reports point to is an incipient public discourse on accidents related to labour, and also the limits to the concern and intervention of public servants like Blaney, however genuine their humanitarianism may have been. What the newspapers cited above were demanding was *justice*, in the

[63] Resolution no. 1309, G.D., Bombay Castle, 11 April 1882.
[64] Ibid.
[65] *Report on Native Papers*, Bombay, 3 January 1882.
[66] *RNP*, Bombay, 9 April 1882.

form of the identification of guilty parties in accidents and their punishment. Something, in other words, along the lines of employer liability. Blaney, even at his angriest, did not contemplate this. For him, as for Jacomb, the point of considering cases like Radhoo Saitoo's was to urge the government to strengthen a law that would prevent the worst abuses of workers' safety. There persisted, however, a deep-seated commitment to a certain notion of industrial peace, which could be ensured by amending statutes, but not by holding employers accountable and punishable for the deaths and injuries of those who worked for them. Only if there was a direct and flagrant violation of existing factory law could the logic of punishment operate. Blaney could have argued that John Stuart, the owner of the bone-crushing mill where Radhoo died, was accountable in some measure for his employee's death. However, in the parameters within which Blaney worked, such an argument was inconceivable. The effect of this was paradoxical. On the one hand, it disabled the possibility of naming a culprit in specific cases of accidental injury or death, even when the employer was clearly morally responsible. On the other hand, it enabled Blaney and like-minded people to make penetrating structural connections between conditions of mill work and the dangers faced by operatives, connections that went beyond the assignment of blame and concrete responsibility. The limits of an emergent reformist discourse and its productive capacities, for convincing argumentation and explanation, were dialectically interwoven.

Meade-King, at the behest of the Bombay government, visited fifteen small mills and factories in Bombay between 11 April and 9 June. He seems to have been deeply horrified by what he encountered there. Subsequently, he wrote about the conditions in small factories twice, once in his general report on the working of the Indian Factories Act, and once in a separate report. In the first document, Meade-King considered small establishments in the section where he analysed the constituent parts of the Factories Act. Examining the definition of a factory, he found it entirely unsatisfactory, and made the radical suggestion that the number of hands employed should not be considered in the process of defining an establishment as a factory. The use of steam power alone

would suffice. He pointed to English precedent: prior to the Act of 1878, which drew small workshops within the ambit of legislation, English law only addressed enterprises employing over 50 persons. This made it possible for manufacturers to evade the provisions of the Act by keeping down the number of their employees. In India, too, the dangers of this were real.[67]

Meade-King backed up Blaney's arguments, pointing out that it was small mills where the least investment was made in human security and well-guarded machinery; further, the preponderance of night-work and excessive hours of labour in these factories was fatal, for these were '*the* two conditions of labour in which so-called "accidents" are of the most frequent occurrence.'[68] The phrase 'so-called "accidents"' is revealing, signaling as it does an attempt to see accidental injury as structurally woven into the fabric of conditions of mill work in Bombay, or at least in its small factories.

Meade-King's more detailed report on small factories contained an even more damning indictment. In two-thirds of the works he visited, he wrote, he found unfenced fly-wheels and mill-gearing. His analysis of the dangers faced by workers, however, went beyond the threat of unguarded machinery. He pointed out that sudden injury to life or limb was usually public, but the most fatal and dangerous afflictions would be silent and invisible.[69] In England, some years before, several deaths had been traced to the effects upon workpeople of sorting different classes of foreign wools. The primary cause for 'woolsorters' disease' was identified as fleeces that had been plucked carelessly from dead animals' carcasses, to which particles of skin and flesh adhered. The two or three wool-cleaning factories in Bombay that Meade-King had visited alarmed him, for the dust coming from the wool was suffocating. The long-term effect of such working conditions on health could be fatal. Pointing

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[67] From W.O. Meade-King to the Secretary to Government, G.D, Poona, 24 June 1882. M.S.A., 1882, G.D., vol.3, no.328.

[68] ibid.

[69] Meade-King to Secretary to Government, G.D., Poona, 7 July 1882. NAI, Home Judicial, October 1882, no. 23-24.

to these cases, and also stressing the tragedy of Radhoo Saitoo's death in the bone factory, Meade-King urged the government to reconsider the provisions of the Factory Act, and extend them to small factories.[70]

No immediate action was taken, but the conditions of work inside small factories had clearly entered the concerns of the Bombay Government. Subsequent to Meade-King's report, factory inspectors across the Presidency made a point of examining small enterprises and commenting on conditions of labour in them. This practice founded a new anxiety about the limits of existing legislation. The Government of India, when appealed to, refused to undertake legislation so soon after the initial enactment, but left a window open, saying that it was willing to reconsider the matter of amendment if reports from Bombay Presidency demonstrated the severity of the problem.[71] Matters came to a head in March 1884, when James Jones, the Inspector of Factories for Bombay Presidency, submitted a report on small works using steam power in Bombay city. He noted the range of activities carried out in these small factories: bone crushing, flour grinding, wool and cotton cleaning, cotton spinning and pressing, engineering, the manufacture of iron, brass, ice, rope, paper, surgical instruments, leather, soda water and acids. All of these employed fast-moving, unprotected machinery. Accidents, wrote Jones, were rampant in enterprises of this sort, but were seldom made public. Legislation was urgently needed.[72] But this was not all.

> **This, however, is not the greatest evil they have to put up with, for in the textile, bone crushing and flour mills ventilation and efficient means for carrying off the dust and gases arising from the various processes of manufacture, are conspicuous by their absence. I have passed through rooms so full of dust that I found it impossible to distinguish objects a few yards ahead and this dust is of**

[70] Ibid.
[71] Memo, G.D., 14 March 1884. G.D., 1884, vol. II, no. 328, part III, M.S.A.
[72] no. 135, Secretariat, Bombay, March 7, 1884. G.D., 1884, vol. II, no. 328, part III, M.S.A.

> **such a vitiated nature that serious injury must ensue to the poor creatures who are obliged to breathe it the live long day.**[73]

These observations founded an urgent request for the reconsideration of factory law. The Bombay Government responded by setting up another Commission of inquiry into working conditions inside mills, charged with the work of evaluating the need for an amendment to the Act of 1881. Blaney served on this Commission as he had on the last, and so did Sorabji Shahpurji Bengali. Probably as a result of the initiative of these two, the Commission ended up recommending the extension of legislation when it made its final report in early 1885. The Indian Factory Act, the Report argued, needed to be brought more in line with existing English factory provisions. The further regulation of the hours of work of working children was called for, the child redefined as a person over nine, the regulation of women's labour was also suggested, holidays for women and children were suggested, and – most significantly for the purposes of this paper – it was urged upon the Government to extend legislation to all factories employing steam power and more than ten persons.[74]

As things turned out, the Government of India did not authorize further legislation, on the grounds that it was too soon after the initial enactment, and that any legislative interference would mean passing a general Act for the whole country.[75] The Bombay government was not forbidden to undertake special legislation for the Presidency, but even the officials most sympathetic to factory workers knew that the strength of the millowners' lobby made such a move impossible. There the matter rested for the moment.

The trajectory of this story is illuminating. An accident in a small workplace caught the attention of one of the more sensitive public servants of the day, and triggered off not inconsiderable turbulence

[73] ibid.
[74] no. 375, G.D., Bombay Castle, 4 Feb 1885, in M.S.A, G.D., 1886, vol. 38, no. 592.
[75] No. 765, Simla, Home Judicial, 3 June 1885, NAI.

in official circles for over two years. Several anxieties crystallized around the death of Radhoo Saitoo: the hours of work inside factories, unprotected machinery, night work, the arbitrary definition of a factory in existing law. These anxieties were powerful enough to propel the Government of Bombay to repeatedly raise the matter of factory law amendment, and request the extension of legislation to small factories. This was, in many ways, remarkable. After all, the death of a common labourer was hardly a scandal in normal times. If we try and imagine a labourer's death entering the concerns of the upper levels of a state government in contemporary India, we might have a sense of exactly how remarkable this particular event was. The drama propelled by this, I would argue, had to do with growing insecurities about the demonstrable weakness of factory law. This is in itself interesting. Factory law in India had, after all, been conceived with a view to interfering as little as possible with the working of industrial capital. However, the production of a system of administration around factory labour, centred around inspectors but also containing at its margins sympathetic public officials like Blaney, meant that the non-performance of the Act would always potentially be a source of worry and embarrassment. With Lancashire constantly stepping its pressure up on the one hand, and figures like Lokhande and Bengali mobilizing support for labour regulation within Bombay, the Act, however weak, could not be a dead letter.

Within this structure of concerns and worries, accidents, as I have already remarked, bore a particular propulsive capacity. If their circumstances were grisly enough, they could be used to jostle the administration of the Presidency, and that of the City, into a semblance of action. These administrations, we must remember, were not univocally resistant to pressures towards humanitarian reform: they contained people like Blaney and Jacomb.

At the other end of the table, there was the Government of India, which at this stage consistently vetoed appeals for the amendment of the Factory Act. Complex pressures were working on the imperial administration as well. Its decision not to undertake factory reform was finally taken after

consulting all the other provincial governments, and obtaining uncompromising refusals of amendment from them. It was as aware as the Bombay Government of the pressure that Indian capitalists could apply and maintain, and the ability of capital to strangle humanitarian reform. On the other hand, it was also cognizant of the pressure exerted by capital in *England.* Manchester certainly wanted a Factory Act in India that would be more effective. The regulation promised by the 1881 Act was not only minor; more importantly, from Manchester's point of view, it did absolutely nothing to interfere with the competition faced from Bombay's textiles. The eventual decision to legislate had been marked by compromise. Manchester had clearly been interested chiefly in the regulation of Bombay mills. The greatest reformist and humanitarian pressures towards legislation also came from within Bombay. However, the protests of the city's capitalists that legislation handicapped them not only internationally, but also vis-à-vis indigenous competition, could hardly be ignored. It could also be argued that a law simply to regulate Bombay's industry would be so blatantly driven by Manchester interests that the smokescreen of protecting Indian labour would not be maintained. The law that emerged balanced these conflicting interests, imposing factory legislation upon the whole country in the stated interests of impartiality.

A legal closure of sorts was thus apparently achieved in 1881, with considerable difficulty. It could be sustained without much acrimony because it was weak and toothless, containing no real mechanism for implementation. What it did contain, however, was a mechanism that allowed inspectors – often far from unsympathetic to factory workers – to scrutinize and judge the space of the mill, a terrain hitherto considered inviolable. This capacity, conjoined with the actual weakness of legislative provisions, rendered the law extremely fragile. There were many forces arrayed against it, and many forces that wished to push it in more interventionist directions. The equilibrium between these forces was maintained, but not without worry and anxiety. And given the tensions between state, capital, labour and public opinion that existed, the power of individual, propulsive events to rupture the

slender consensus, and necessitate reconsiderations of the limits of law, was immense. Accidents could be particularly effective propellants of anxiety at particular times.

The death of Radhoo Saitoo exemplified this. A death that would have been small, even negligible, in terms of government concern had it not been so delicately interwoven with a fragile and troubled law, precipitated a minor crisis in the reproduction of a stable consensus. It led to the articulation of official and public concern, the setting up of a Commission, the accomplishment of a government resolution, and eventually reconsideration of the whole question of factory legislation by the imperial government. The matter was finally laid to rest when the ball was put back in the Bombay Government's court. When push came to shove, the Bombay Government did not have the capacity to pass a separate comprehensive law for factory regulation, for this would upset the existing hierarchy of industry within India, putting Bombay at a disadvantage. Legislation, if it had any chance at all, had to be national in nature. For the moment, the appeals for amendment were muffled by central will, and an uneasy equilibrium was reinstated.

Losing Sovereignty: Nadiad and its Millowner

The two incidents I have probed so far both took place in the city of Bombay, where organized industrial capital was strong, and had the capacity to effectively counter the intrusions of law into the workplace. This did not, as I have tried to show, mean that the tensions implicit in the legal authorization of official intervention were erased. However, the field of force within India's most rapidly industrializing city was weighted in favour of business elites and employers. Law produced tensions and minor battles, but the despotism of the employer, even if somewhat restrained, could not wholly be replaced by the despotism of the state over him.

Things could, however, be experienced differently in smaller places, where industrial capital had not boomed in quite the same way as it had in Bombay, where millowners were not locked into a tight, influential elite enclave in quite the same way. Were there industrial spaces, factories, where the achievement of factory law might have produced greater and more tangible worries for millowners than it did in Bombay city? Were there places where the intrusion of the state into a working space previously considered the employer's sovereign domain produced a more apocalyptic sense, as entitlements and practices earlier considered inviolable were suddenly threatened? Were there, to put it a little dramatically, millowners under whose feet the ground suddenly seemed to shift? In the concluding section of this paper, I shall construct a small historical narrative that signals affirmative answers to these questions.

In all of Kheda district in central Gujarat in the early 1880s, there was only one factory. It was located in the town of Nadiad, located within the sub-division of the same name. This town had been, through the eighteenth and nineteenth century, an important commercial centre, reputed, as David Hardiman observes, more 'for its prosperity than for its beauty'.[76] In 1803, it had been handed over by the reigning Gaikwad ruler to the British Government. By the 1830s and 1840s, it had developed a considerable trade with Malwa and the Gujarat interior, importing grain, gums, and dye stuffs, and exporting cotton, coarse cloth, calicoes, tobacco, and coarse sugar. In 1872, when the first census was taken, it was inhabited by 24,551 people, and was the largest town in the district, its importance being enhanced by its status, from 1863, as a station on the Bombay Baroda and Central India Railway.[77] In 1866, the town acquired a new civic organization, with the establishment of a municipality dominated by the Nadiad Desais, the major Patidar agriculturists of the area.[78]

[76] David Hardiman, *Peasant Nationalists of Gujarat: Kheda District 1917-1934*, Delhi 1981, pp.70-79.
[77] *Gazetteer of the Bombay Presidency*, vol.III, no. 1673: *Kaira and Panch Mahals*, Government Central Press, Bombay, 1879, p.175-177.
[78] Hardiman, op.cit.

Nadiad was a busy commercial town, its trade dominated by Banias and Brahmins. Cotton was grown in abundance in the district, and was, along with tobacco, the chief item in the town's export trade. The Gazetteer of 1879 noted that the opening of the railway had placed the finer piece-goods produced by Manchester within easy reach of the richer sections of the population not only of the town, but also the surrounding villages.[79] The coarser piece-goods from Manchester and the coarse cloth woven in local handlooms had come to be superseded by cloth produced in the mills of Bombay and Ahmedabad.[80]

An industrial capitalist operating in such circumstances must have considered himself a pioneer, and adventurer opening new horizons in the history of the town. He must also have stood out in Nadiad, and people would have taken note of him, as one of his kind. Sheth Manordas Harakchand, in 1876, opened Nadiad's first modern industrial enterprise, a cotton-spinning mill. There is evidence that the going was not easy: in 1878, due to a shortage of capital, the mill had to shut down.[81] The proprietor's fortunes turned soon enough, though, and the following year he reopened the mill. It seems to have prospered in the following years. Towards the end of 1881, the mill worked 9744 spindles and employed 357 hands.[82] Two years later, at the time when controversy broke out around the practices of the proprietor, it worked 127,444 spindles and employed 458 hands.[83] The statistics are not wholly reliable, but they do indicate modest and sustained growth for the mill in the early 1880s. Manordas Harakchand reigned supreme over the administration of the mill, making the profits from its functioning, and also rejoicing in the posts of Manager, Secretary and Treasurer.[84]

How would an enterprise of this sort relate to the Factory Act? Since so far this paper has focused on the mills in Bombay city, what needs to be registered first of all is the great situational difference

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[79] *Gazetteer,* op.cit.
[80] ibid.
[81] ibid.
[82] Quarterly Reports on the Working of the Indian Factories Act, no.4, 10 Jan 1882, G.D., Bombay.
[83] No. 4170, 6 Dec 1883, G.D., Bombay.
[84] Ibid.

between Bombay and Nadiad. Bombay was a growing, already crowded industrial centre, densely packed with factories of various kinds. Administering the Factory Act and regulating the mills' use of labour was in one sense facilitated by this denseness: the offices of the relevant administrators were not far from any of the mills they had to survey. But on other counts the work of these administrators was made much harder. Labour in Bombay was mobile, sliding continually between different labour regimes. Capital therefore had flexible options. To avoid regulation, a millowner could disperse his production across small units, or divide it between one large unit and several small units. The vast majority of spaces in which industrial workers worked, as this paper has already observed, were unregulated. To add to all of this, the millowners of the city could compose, when they wished, a coordinated and formidable body of organized capital, capable of confronting the law with confidence and eloquence.

All of this was a constant bother for men like Jacomb, Kharsedji Servai, and James Jones, successive Inspectors under the Act. Administratively, there was considerable burden on them. Jacomb, for instance, had to simultaneously carry out the duties of Collector and Factory Inspector. He complained about this to the Governor, but was not relieved. Further, the Inspector of Factories for Bombay city was also the Chief Inspector of Factories for the Presidency, and as such charged with the work of coordinating the reports that came in every quarter from different divisions and districts, and not infrequently that of visiting factories that were posing problems for the operation of the Act. All of this meant a great deal of work and coordination.

Nadiad's contrast with this is stark. Sheth Manordas ran the only factory in the city, and also in the entire district of Kheda. He did not have access to the support of organized capital in the way that the smallest millowner in Bombay at least potentially did. Life as a pioneer industrial capitalist must at times have been lonely. The administrative structure that loomed over him was much more formidable than that faced by, say, a Dinshaw Manockjee Petit. There was, first and foremost, the ex-

officio Factory Inspector for Kheda, who usually combined this with the duties of Collector and/or District Magistrate. J.H. Grant and A.H. Spry succeeded each other, between the late 1870s and the 1880s, as the authorities directly responsible for reporting on the mill. The tier above this was occupied by the Commissioner of the Northern Division of the Bombay Presidency, G.F. Sheppard. If a major dispute was to break out, the authorities in Bombay could also intervene in the affairs of the mill. Finally, Spry, the Collector of Kheda, had plans in mind for the Nadiad mill that the proprietor objected to strongly in his letter to the Governor. The mill, as it stood, fell outside the administrative limits of the Nadiad Municipality. Spry proposed to alter the municipal limits so as to include the mill within them. 'In this way your Excellency's petitioner has been harassed on all sides', shrieks Manordas Harakchand in his petition to the Governor.[85] The depth of his feeling is not difficult to appreciate. Despite the mildness of the Factory Act, a proprietor like Manordas Harakchand felt besieged by the administrative structure that it produced, that claimed the right to inspect and adjudicate conditions in his mill.

Factory inspection, then, could produce much greater knowledge of industrial conditions and relations within a mill like that at Nadiad than it could in Bombay. This points to a certain differential experience of factory regulation – millowners in isolated, out-of-the-way places could feel the effects of legislation much more sharply than those in Bombay. What made factory inspection so very intrusive in mills of this sort, I would argue, is that it completely reversed the state of affairs before legislation. Before the formulation of factory law, mills in Bombay were often criticized, inside and outside government circles (they received considerable attention in the press as well) for their practices with regard to working conditions. After all, it was not so very easy to hide the truth about mill conditions in Bombay completely. Workers would talk, people would note the changes in the industrial landscape, many of the smaller mills were not enclosed spaces, and their practices were reasonably public. It was when intimations of danger within mills needed to be specified with more

[85] Petition to Governor, G.D., 5 March 1884.

precision for legal purposes that Bombay's mills held the advantage over mills in Nadiad or Broach or Khandesh. On the other hand, a mill like the one at Nadiad, prior to the regime of inspection, could probably have organized its practices with more or less total freedom from outside scrutiny or even comment. To put it bluntly, Sheth Manordas Harakchand was too minor to merit even a footnote in the considerations of officials or of big newspapers. On the other hand, when a protective regime was finally set in place, matters were transformed completely, and the secrecy enjoyed by the Nadiad mill dissolved, as it came under the scrutiny of several administrative regimes at once. It is with this distinction in mind that we must approach the history of the Nadiad mill and the inspections that made its violations of law visible.

Once again, conditions of danger and vulnerability inside the mill alerted authorities to the possibility of violations of law. Towards the end of 1881, Grant, the District Magistrate and Acting Collector of Kheda, reported to Sheppard, the Commissioner of the Northern Division. He had visited the Nadiad mill, and found conditions so defective that he wanted Moylan, the Inspector of Boilers in Bombay, to inspect it. The fencing of machinery, wrote Grant, was defective both in the engine rooms and in other spaces within the mill. The factory floors were greasy with oil, and consequently very slippery. 'I do not think I would be able to walk about it for two days in boots or shoes without a fall.'[86] These were not facts about a factory that had ever previously been remarked. As with other aspects of working conditions, the physical safety of the workplace, in all its aspects, was considered outside the realm of official scrutiny. The transformation of this, and the beginning of an ethic of investigation and knowledge production about precisely these conditions, dominates the history of factory inspection everywhere. But in Nadiad the intensity of the official gaze was greater. None of the accounts of factory conditions in Bombay city, in the reports of inspectors, had contained such wealth of detail. And this detail was to reproduce itself over time, in the case of Nadiad.

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[86] No. 4691, G.D., Bombay, 12 Dec 1881.

Accidents were also relatively easier to track down, if an Inspector had the will to do so. Grant visited the hospital at Nadiad and took a list of accidents at the mill from the Hospital Assistant. These were relatively 'minor' accidents – a pulley grazed a boy's scalp and drew some blood, a leather belt caused an abrasion to a man's right forearm, and another man's foreman was incised by machinery.[87] Grant acknowledged that the owner was willing to adopt the suggestions for fencing machinery, but noted a cover-up when it came to reporting accidents. 'A report was submitted stating that a boy was injured in a fight with another, while it is correctly said that he was hurt by machinery.'[88] In a more detailed report that Grant submitted to Sheppard a few days later, he added: 'Two accidents were informally reported, but one did not clearly state the nature of the accident. The dispensary books show *three* accidents treated during the quarter, but, as the third person injured would, no doubt, deny that he was injured by machinery, it would be useless to follow this up.'[89] Other matters apart, this remark demonstrates a keen awareness of the nature of coercion and fear that structured employer-worker relations, and the tendency of accident victims to avoid blaming mill conditions for fear of losing their jobs. Such dissimulation would usually not have been tracked down in Bombay, where inspectors rarely had the time to verify the details of accidents. But for whatever reason, Manordas Harakchand clearly interested the District Magistrate. The latter also noted that the proprietor's proclivities towards a liberal interpretation of the truth did not stop with accidents: he also concealed the fact that his mill employed children. This litany of minor violations of law was noted. In effect, Grant told the millowner, 'We're keeping our eye on you.' Clearly a defiant man, Manordas Harakchand responded with a sullen refusal to fund a journey by Moylan to inspect the mill.[90] This was hardly likely to endear him to government authorities.

Through the remainder of 1882, the proprietor suffered the burdens of the law's scrutiny. On 17 March, Grant visited the Nadiad mill again. The mill had clearly been marked as a space where

[87] Ibid., appended list of accidents at Nadiad Mill, 11 December 1881.
[88] Ibid.
[89] no.4, G.D., Bombay, 10 Jan 1882.
[90] no. 58, G.D., Bombay, 1882.

workers were vulnerable to physical danger, and so careful note was taken of the only three accidents that occurred during the quarter. One can imagine this having been the source of particular insecurity for the employer. None of the accidents were, in this case, attributable to problems of management: in one case, a labourer was injured by a fall; in another, one was hurt by his thumb being pressed under machinery; and a third was kicked by a bullock.[91] But all the same, this was evidence that, in this mill at least, solicitous attention would be paid to the details of accidents suffered by workmen. An employer who was committed to not investing very much in the upkeep of machinery and good working conditions could hardly be expected to find this reassuring.

Grant also paid careful attention to the condition of the machinery, and found it wanting in every respect. The guards for the headgear of the mule frames were off at the time of inspection, even though the mills were at work. The engines of the pulleys in the blowing-room were insufficiently fixed. There was also a wrangle between the state and the employer over the organization of space in the carding room. Grant observed that the spaces between machines in the carding room varied greatly, and that some machines were less than 20 inches apart. A 'servant of the proprietor' apparently then informed Grant that 'it was contemplated to introduce six more machines into the room, and reduce the spaces to twelve inches between each'.[92] Grant, aware that this could add to the growing list of 'dangerous spaces' in the mill, forbade this.

In the middle of 1882, whenever a problem arose around the working of the Factories Act with regard to any mill in the Presidency, the government's favoured policy was to request Meade-King to look into the matter. As with Radhoo Saitoo, so with the Nadiad Mill. Meade-King agreed to inspect factories in Gujarat, and carried this out in July. In a brief account of his visits to the Government, he made his displeasure with Manordas Harakchand felt. The mill, he wrote, was in a deeply unsatisfactory condition, despite the fact that the Collector of Kheda 'has evidently done all in his

[91] No. 367, G.D., Bombay, 13 April 1882.
[92] Ibid.

power to persuade the occupier to comply' with the Act.[93] 'The inside walls of the mill were dirty and the reelers were working in miserable sheds with little light and less air: one of these sheds had no window.'[94] The consequences of this kind of violation were spelt out, in language that was terse and sharp.

> **...the Proprietor, who was present at the time, was given to understand that, if he did not immediately proceed to carry out certain instructions which we felt it our duty to give him, legal proceedings would be taken against him for offences against the Factory Act. Mr Grant will doubtless pay another visit to the mill shortly and prosecute the occupier if he then finds that no attention had been paid to the caution which has been given to him.**[95]

There was no prosecution yet, though. For over a year after this confrontation, the proprietor of the Nadiad Mill seems to have behaved himself, and acted in accordance with the law. In the meantime, Grant was replaced by A.H. Spry, who combined the roles of Collector, District Magistrate and Inspector of Factories. His *locus standi* in the last capacity, however, was unclear, since in November 1883 James Jones was appointed Inspector of Factories for the whole Presidency. This was the first time the post of Factory Inspector was separated off from all other posts in the administration of Bombay Presidency. In his petition to Government in March 1884, at the crest of the controversy around his mill, Manordas Harakchand claimed that 'The Collector had never dreamt of losing his authority over the mill.'[96] Whatever the truth of this, it is clear that Spry and the proprietor of the Nadiad Mill locked horns fairly early, and that they stayed locked. Spry, as President of the Nadiad Municipality, altered the municipal limits (as already mentioned) so as to include the mill. According to the millowner, the Collector also levied illegal taxes on goods coming to the mill.[97]

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[93] no.21, G.D., Bombay, 14 August 1882.
[94] Ibid.
[95] Meade-King to Secy. to Govt., G.D., Bombay, 11 August 1882.
[96] Petition from Shah Manordas Harakchand to Governor of Bombay, G.D., 5 March 1884.
[97] Ibid.

Nor was this all. In August 1883, Manordas Harakchand seems to have had a serious dispute with his millhands. The reasons for this are not recorded, but the upshot was that the regular workers left the mill. For the good capitalist, though, every problem is an opportunity the right side up, and Manordas Harakchand was nothing if not a good capitalist. He instantly replaced his experienced workers with raw and inexperienced hands, making up in wage economies for what he lost in skill. The absence of skill had other consequences, though; in August and September, the number of accidents began to pick up again.[98] Most of these were minor, involving injuries to a finger or hand, and none of them, so far as can be told, leading to amputation. The records of the accidents show, however, that the proprietor had begun to staff his workforce with labour that was younger, less experienced and more vulnerable. Between October 1882 and June 1883, six accidents were recorded. Three of the victims were 20 years and above, one was 16, another 14, and one was 10. Between August and the end of September there were no fewer than ten accidents. Most of these involved injuries to hand or finger; one saw a man fall and hurt his head and right leg, and another saw a boy of ten fall down the stairs of the mill. The ages of the victims between August and September, and therefore after the mill dispute that transformed the workforce, are significant. The oldest victim was 17; one boy was 14; six were 13, one was 11, and one was ten years old.[99]

On 20 September, the Collector paid a surprise visit to the mill. This was one of the few genuinely effective attack tactics an Inspector could deploy if he suspected mischief from a millowner. Often, surprise visits lost their bite because word got around and millowners had their mills in order before the inspector arrived. This was not one of those occasions. Manordas Harakchand, so to speak, was caught napping. Four children who were certified by the Kheda surgeon as underage were found working in the mill. Upon further investigation, it transpired that this was not all. The proprietor had apparently not reported the last three accidents that had occurred in the mill. In the statute books after the passage of the Factory Act, these were the two most serious transgressions of law a

[98] no. 4170, G.D., Bombay, 6 December 1883.
[99] Ibid.

millowner could commit. Two cases were laid before Kennedy, the Sub-Divisional Magistrate, and Sheth Manordas Harakchand was found guilty and sentenced to a fine (or two months' imprisonment in default of this) in both. For employing underage children, he was fined Rs.80, and for not reporting accidents Rs.90.[100] As the solitary mill proprietor in the district, he must have faced intense humiliation.

In the report that he wrote on the Nadiad Mill for Sheppard, Spry pointed out that severe administrative problems were being caused by the fact that the District Magistrate no longer had any locus standi in the matter of factory regulation after James Jones' appointment as sole Inspector of Factories for the Presidency.[101] Would it not be more advisable to leave these powers in the hands of the District Magistrate – viz. Spry himself – since Jones, despite his expertise in the matter of machinery, had insufficient time to examine each mill in the Presidency?

Three months after this report reached Government, news seems to have got around to Sheth Manordas Harakchand that his old adversary was pleading for the authority to resume his powers of inspection over the Nadiad Mill. The millowner immediately wrote a letter to the Governor of Bombay, and what communicates itself from the text of this letter is a smoking, almost choking kind of rage. He wrote:

> **That your Excellency's petitioner has heard from a flying report that the Collector at Kaira has not been satisfied with the trouble he had given your Excellency's petitioner, while he was Inspector of the mill; but wants to regain the authority and thus to harass further your Excellency's humble petitioner.**[102]

[100] no. 4706, G.D., Bombay Castle, 21 December 1883.
[101] No. 4170, G.D., Bombay, 6 December 1883.
[102] Petition from Sheth Manordas Harakchand, op.cit.

Clearly, the world of factory regulation, for someone like Sheth Manordas Harakchand, was strange, new and threatening. A suddenly transformed world, in which people with no knowledge of, or sympathy for, his work, could come and inspect its fruits and pass judgment on it. A world where he had previously run his business and conducted his relationship with 'his' workers without outside interference was had suddenly been rearranged and populated with new forces, crowded with new sources of danger, where each of his practices, earlier taken for granted, suddenly had meaning and legal significance, suddenly occupied a new relationship to legally inscribed ideas of right and wrong, permissible and impermissible. This could not have been an easy world to live in. Factory law, in a town like Nadiad, was not a dead letter.

Conclusion

This dissertation has been an attempt to tease out certain possible approaches to the history of India's first Factory Act. In common with many academic projects, it started out as a more ambitious venture. I had initially intended to structure it around the first three pieces of factory legislation – in 1881, 1891, and 1911 – and to conclude it around the early 1920s, when protective labour law was beginning to take on broader dimensions, and more complex and many-sided state interventions in the workplace were on the anvil. With the 1920s as an end-point, the dissertation would have had to engage with a longer stretch of historical time, to propose certain ways of reading the long-term trajectory of factory law, and to consider, among other things, the relations of law and state with a working-class movement that began to burgeon, and to take militant shape, in the first quarter of the twentieth century.

Historical evidence, however, has ways of checking and radically recasting the initial ambitions of researchers. As I began to read the archival sources, the large historical narrative I had envisaged seemed to retreat, and a new concern began to take its place. This was, simply put, a concern with a more micro-historical approach, a consideration of the surprisingly complex historical and conceptual issues woven around the life of the first Factory Act. The result of this has been a dissertation with a radically altered project, aiming to produce a new object of historical enquiry altogether. I now see my research as an attempt to consider some of the relationships between law, events, and discourses, arranged around the axis of a single, remarkably weak, piece of labour legislation. So I have made, and tried to defend, certain claims about the significance of this episode in legislative history, and to establish the importance of some methodological and thematic concerns that have hitherto played little or no part in the understanding of factory law.

The first of these concerns has been with the making of the law itself. As I have argued repeatedly through the dissertation, a historical commonsense that explains away the 1881 Factory Act as a consequence of Manchester machinations is a partial and dangerous approach to this problem. Simply as an explanatory device, the reference to Manchester is not misplaced, though I do believe it generates a unilinear mode of enquiry. The deeper problem, though, is that this approach substitutes explanation in a bland form – as the identification of causal 'factors' – for a more wide-ranging historical *exploration*, which need not eschew but cannot be exhausted by the search for explanatory levers. The making of the Factory Act, I have argued, is a moment that encases many intersecting and contingent histories: of philanthropic initiative, of social-reformist pressure, of circulations of legislative concerns between metropole and colony, and of a number of other narratives. I have explored these all too briefly, but even this cursory examination points to a more multidimensional historical process than has usually been imagined.

The making of early factory law points us in another direction, entangled with what I have described above, but also relatively autonomous of it. This concerns the movements and trajectories of a certain discursive history – a history of the evolution of a logic and language of legislative protection. The emergence of particular labouring identities, at the intersection of lived experiences of work and discursive frames that seek to identify them, is meshed in with this. One of the many ways in which this can be approached is through a consideration of *productions of knowledge*, one of the binding concerns of my dissertation. The opening up of the question of factory conditions as an object of official enquiry was intimately linked with the production of spaces of concern and anxiety. The investments of state officialdom in factory protection were, it seems to me, profoundly *anxious* investments. These anxieties were many-sided and internally riven: worries about the vulnerability of labour and about the need to maintain cordiality between state and capital, for instance, touched off one another's edges and produced conflictual and contradictory state pronouncements and practices.

The production of knowledge about factories, through commissions of inquiry and through official inspections, performed several functions that were not necessarily consistent with one another. It could designate and delimit objects of legitimate intervention (the child but not the woman, the woman but not the adult labourer, hours of work but not wages) but also help create fields of discourse where the deliberate self-limitations of law could be seriously questioned. Above all, the officially administered production and reproduction of knowledge of working conditions had a potentially propulsive effect. The delineation of a fixed, closed body of concerns which sought the terminal exclusion of others was difficult to accomplish: the text of the law was as characterized by spillovers that could not be subsumed as it was by closures. The borders of the law could, at particular conjunctures, come to be unsettled.

The making of law and the production of knowledge, then, are two of the axes along which my enquiries have been situated. The third, and perhaps the most important, is the space of *administration.* The history of the administrative working of the Factory Act, it seems to me, can provide the best clue to its 'nature', especially in the absence of court records for this early period. There are many ways in which this can be approached. One way would be to examine, at length, the structure of the inspectorial regime that was set up by the Act. I have only considered this question briefly, and much more needs to be done. My primary concern has been with particular events and narratives within the early history of factory law, which serve to illuminate the complexities and tensions in its working.

My arguments, in the dissertation, have been regularly punctuated and given shape by such events. The central focus of my first chapter was the encounter embodied in the Factory Commission of 1875. In the second chapter, two incidents illuminated the case I tried to build: first, an instance of administrative 'malpractice' centred around the medical certification of the age of factory children, and second, the crucial interventions of a factory inspector from England. In the third chapter, which was loosely built around the ways in which workers' physical vulnerabilities came to be articulated

with the regime of protective law, I considered three events. First, a concerted campaign by millowners to protect their prerogatives over the configuration of space in their mills. Second, an accidental death that sparked off significant anxieties and nearly produced an effective reconsideration of the limits of law. Third, a dramatic conflict between state officialdom and a particular millowner on the spatial margins of the Factory Act's administrative and juridical domain. These events, I believe, are best seen as overlapping moments within the early life of factory law, as possibilities within the law that pushed it in different directions. The narrative trajectory of these events fed into and produced specific sets of concerns: around age, around the limits of administrative interference, around the limits of exploitation, around arrangements of work-space, around working hours, and around the bodies of workers. The meanings of factory law that emerge from these descriptions of events imply, in my view, an important methodological argument for a micro-historical approach, centred around local events and ruptures that capture the wider dimensions of contingent situations.

These, in brief, have been the concerns and arguments that have been explored in my dissertation. There is much, however, that has been left unexplored. The actual place of Lancashire in the making of factory law is a significant omission, and detailed consideration of this would, I am sure, produce new insights and significantly transform the field I have delineated. I do believe, however, that a productive examination of this would turn on methodological approaches similar to the ones I've argued for, rather than a bald and bland cause-and-effect correlation that effectively evacuates the space for historical problematization. More important still, I think, would be a close examination of the specific constellation of social forces that intersected within this history. One could consider, for instance, the ways in which millowners organized themselves, and their relation to the shifting terrain of the legal regime. It would also be productive to relate the ambiguities and multiple threads within administrative discourse more concretely to specific administrative histories, structures and functions. The emergence of professional practices and discourses is also very relevant – medical regimens are a

case in point, as are the kinds of expertise associated with official and independent investigators: factory inspectors, early journalists, lawyers, members serving on Commissions of Enquiry.

The question of where the voice of the worker is placed in this history is one that needs detailed consideration, and I have been unable to deliver this. Barring stray observations, I have deliberately bracketed this off from my dissertation, because it is a huge question, and the research I've done is simply not adequate to the task. But even within the limitations of the narratives I've set out, it is possible to ask interesting questions connected with this problem. The points at which workers' voices emerge may be important objects of consideration: their solicitation by commissions of enquiry, their eruption into the consciousness – and reports – of inspectors, and so on. A genuine social history of factory law would not only have to take this into account, but also centre itself on it.

My account of factory law, then, has been constructed as a series of micro-historical narratives that are characterized by ambivalences, ruptures, contingencies, and the production of new logics and structures. It is not 'the whole story', which has yet to be written. I hope, though, that this preliminary research, and these attempts to grapple with the evidence this research has produced, demonstrates that it is a story worth trying to write.

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