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Taking Sovereignty to Court:
An Inquiry into the Trial of Bahadur Shah Zafar

By

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Abstract

Muhammad Bahadur Shah Zafar – the last Mughal emperor – was tried for treason and sentenced to exile within a British court of law at the conclusion of the Sepoy Mutiny in India in 1857. The trial decisively brought the Mughal Empire to an end while fundamentally transforming the nature of colonial authority in India, from Company Rule to Crown Rule. Many scholars have argued that the trial was conducted as an "afterthought" to the violent repression of the Mutiny by the British forces – a formality in the inevitable establishment of the British Empire in India. This view offers a limited understanding of the trial and the role of the law in shaping sovereign authority in India in the nineteenth century. This paper argues that the trial of Bahadur Shah Zafar played a crucial role in restructuring the colonial episteme after it had been violently challenged by the Sepoy Mutiny. This colonial episteme, which emerges through the trial, allowed for the simultaneous construction of Mughal treason and justification of British claims of sovereign authority in the Indian subcontinent. The restructuring of the colonial episteme did not entail a dismantling of pre-existing imperial networks and structures in the Indian subcontinent. Rather, by enfolding these networks into the colonial episteme, the trial played an important role in transforming these networks to justify British claims of sovereign authority in India. To elucidate this argument, this paper aims to critically analyze three types of evidence that were presented during the trial, namely: documentary evidence, testimonies, and newspaper reports. Finally, this paper argues that, by invoking the discourse of the law, the trial of Bahadur Shah Zafar restructured the colonial episteme, which, in turn, shifted the locus of sovereign authority within the Indian subcontinent from the Mughal sovereign to the British Crown.

Introduction

Muhammad Bahadur Shah Zafar – the last Mughal emperor – was tried for treason and sentenced to exile at the conclusion of a twenty-one-day court proceeding in 1858. After the British forces brutally repressed the Sepoy Mutiny of 1857, the figurehead, Bahadur Shah Zafar, was captured and imprisoned by East India Company (EIC) officials. A court of law was set up by EIC officials in the *Diwan-i-Khas* (hall of private audience) within the Red Fort in Delhi – the seat of power of the Mughal emperor. The charges of treason were presented as incontestable facts – "for he (Zafar) being a subject of the British Government in India… proclaimed and declared himself King and sovereign in India."[1] However, prior to the commencement of the trial, there was significant confusion among the British officials regarding the nature of the trial itself – Was it a juristic trial? A court of inquiry? A court-martial? Or a military commission?[2] After all, how does one take sovereignty to court? The trial of Bahadur Shah Zafar played a crucial role in restructuring the colonial episteme after it had been disrupted by the Sepoy Mutiny. This colonial episteme, which emerged through the trial, allowed for the construction of the treason of the Mughal emperor within the British court of law and justified the British Crown's claim of sovereign authority in India.

Many scholars have argued that the trial was conducted as an "afterthought" to the violent repression of the Mutiny by the British forces – a formality in the inevitable establishment of British power in the Indian subcontinent. This view offers a limited

[1]Trial of Muhammad Bahadur Shah, Titular King of Delhi, and of Mogul Beg, and Hajee, all of Delhi, for rebellion against the British Government, and murder of Europeans during 1857. *Selections from the records of the Government of the Punjab and its dependencies* (Lahore: Punjab Print Co., 1870), 1 (Henceforth referred to in the footnotes as: The Trial of Muhammad Bahadur Shah.)

[2] Kripal Chandra Yadav, *The Sovereign, Subject and Colonial Justice: Revisiting the Trial of Bahadur Shah, 1858* (Routledge, Taylor & Francis Group, 2023), xv. This tension was also influenced by the British Parliament's intervention in the functions of the EIC. The Act of 1813 ended the EIC's monopoly and asserted the sovereignty of the British Crown over the EIC. The Act of 1833 restricted the EIC to only political functions. Finally, the renewal of the British charter through the Act of 1853 cemented the British Crown's control over the EIC in India. Thus, by the time the Trial of Bahadur Shah Zafar takes place in 1858, there is significant overlap between EIC officials and officers of the British Empire. For more information see, Pramod K Nayar, *The Trial of Bahadur Shah Zafar* (Orient Longman, 2007) xv.

understanding of the trial and the nature of colonial law. It assumes that colonial law was a stable and static set of rules and regulations that were uniformly imposed with the establishment of the British Empire in India. In contrast, British officials invoked the discourse of law in inconsistent ways to negotiate and consolidate political legitimacy within the composite political landscape of India. This is particularly evident in the invocation of the law during the trial of Bahadur Shah Zafar. It is imperative to pose the following questions – What purpose did the trial serve in the establishment of Crown Rule in India? What political projects and imperial anxieties influenced the trial? What was the nature of the evidence presented during the trial? Finally, how did it shape sovereignty in India during Crown Rule?

Scholars who have interrogated the trial of Bahadur Shah Zafar have primarily aimed to answer two questions – (1) Who was the enigmatic emperor – Bahadur Shah Zafar? (2) Was the trial lawful? The scholars who pose the first question piece together evidence that reconstructs the life of the emperor and the political climate of Delhi in the nineteenth century. For instance, William Dalrymple examines the life of the emperor as a head of state, calligrapher, musician, and poet. In so doing, Dalrymple tries to capture the "portrait of the Delhi he (Zafar) personified."[3] Amar Farooqui traces the imperial perspectives – sources from the Red Fort that highlight the inextricable imbrications of the figure of Bahadur Shah Zafar and the city of Delhi. He provides a persuasive argument regarding Bahadur Shah Zafar's active decision to exercise his sovereign authority to support the Sepoys against the Company.[4] The contribution of these scholars challenges the notion of the Mughal emperor as a passive spectator of the imposition of British authority in India.

The scholars who interrogated the legality of the trial were interested in whether British officials had the jurisdiction or authority to prosecute the Mughal emperor. They

[3]William Dalrymple, *The Last Mughal: The Fall of a Dynasty: Delhi,1857* (Alfred A. Knopf, 2007) 9.
[4] Amar Farooqui, *Zafar and the Raj: Anglo-Mughal Delhi, C.1800-1850* (Primus Books, 2013) 145.

approached this question from various perspectives. For instance, in their assessment of the legitimacy of the trial of Bahadur Shah Zafar, M. W. Akhlaq and M. A. Soomro adopt a doctrinal approach. Based on their analysis from the perspective of international law, Akhlaq and Soomro argue that the British court was not vested with the authority to conduct the trial because the Mughal emperor was never deposed by his subjects, the British government or any external powers. Thus, according to the international law, the Mughal Empire maintained its legal existence till 1857.[5] Aman Kumar argues that the trial was simply a "tool of colonialism" that aimed to create a "negative moral aesthetic" of the weak and ailing Bahadur Shah Zafar to appease the metropole.[6] By focusing on the aesthetic value of the trial, he obscures the political and legal context and consequences of the trial. The contributions of these scholars are crucial in understanding the legal apparatus at work during the trial. However, the question – were the trial proceedings legal? – is limiting as it does not change the fact that the trial did take place, the Mughal emperor was exiled, and the British Empire did claim sovereign authority in India. Further, it does not register the political landscape and legal outcomes of the trial. To gain a holistic understanding of the trial, it is beneficial to ask the question – Why did the trial take place? What factors allowed for the trial to be conducted? And what changes did the trial produce?

To answer these questions, there is a need to critically analyze the Sepoy Mutiny of 1857 as a significant crisis in the history of the British Empire which necessitated a legal reworking of the relationship between the metropole and the colony.[7] The Mutiny

[5] Mir Waheed Aklaq and Muhammad Akmal Soomro, "Military Trial of Emperor Bahadur Shah Zafar: An Assessment of its Legitimacy." *Harf-o-Sukhan* 8, no. 2 (2024): 343-359. 348.
[6] Aman Kumar, "Trial as a Tool of Colonialism: The 1858 Trial of Mughal Emperor Bahadur Shah Zafar", *International Criminal Law Review* 22, 1-2 (2022): 166-188, pp. 178-179.
[7]The terminology "Sepoy Mutiny" has long been contested by scholars. Biswamoy Pati offers a succinct overview of this scholarly debate. While colonial historians have called the uprising a "mutiny" or "rebellion", nationalist historians have differently labelled it as "the great rebellion", "the Indian Insurrection", and a "war of Independence." Marxist scholars have referred to it as a "revolution." However, recent scholarship has been interested in the background factors and actors that enabled the uprising. Thus, scholars have called it a "peasant" insurgency and a "popular uprising". The debates around the terminology highlight the complexity of

fundamentally altered colonial authority in India – leading to a transition (which had been long in the making) from Company Rule to Crown Rule in 1858.[8] Further, it necessitated a reworking of the colonial worldview in Britain. Prior to the Sepoy Mutiny, EIC officials were engaged in the process of producing knowledge of Indian society by gaining a "command of language" for economic, political, and military purposes.[9] This information structured the colonial episteme and became the foundation on which people in Britain conceptualized the Indian colony, the colonial subjecthood of the natives, and their colonial identity within the British Empire. However, the Sepoy Mutiny shattered the façade of their control over knowledge production. The news of misgovernment in the colony and the killings of Europeans during the Mutiny led to public dissatisfaction with the EIC and the government in Britain. To assuage the public demand for retribution, British officials brutally repressed the Sepoy Mutiny, legally deposed Bahadur Shah Zafar, and declared Queen Victoria to be the "Empress of India." Further, they addressed the problem of misgovernment in the colony by dissolving the EIC and introducing British governance and law in India. However, Crown Rule brought a new set of challenges relating to the nature of the British Empire in India.

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the event and its affective relevance in the present day. For more information see, Biswamoy Pati, "Historians and Historiography: Situating 1857." *Economic and Political Weekly* 42, no. 19 (2007): 1686–91. http://www.jstor.org/stable/4419570. Nonetheless, this paper continues to use the term "Sepoy Mutiny" as that was the term used by British officials writing about the rebelling sepoy to Britain. Further, as the trial was conducted within a British court of law, the term "Sepoy Mutiny" most closely reflects the anxiety that animated the proceedings.

[8] C. A. Bayly argues that the Mutiny led to the disruption of the information order that underlined Company-Rule in India till the nineteenth century. This disruption necessitated a new way of understanding the relationship between Britain and India. Thus, Crown Rule signaled a creation of a new information order. For more information see C. A. Bayly. *Empire and Information: Intelligence gathering and social communication in India, 1780-1870*. (Cambridge University Press, 1996) pp. 6-9.

[9] Bernard Cohn, *Colonialism and its forms of Knowledge: The British in India* (Princeton University Press, 1928) 16; Additionally, Philip Stern argues that the EIC was a Company-State imbued with sovereign authority to bind a multitude of people into a legal singularity – that is, to create subjecthood. There is much merit in Stern's conceptualization of the Company-State in understanding the autonomous functioning of the EIC in India as it allows an understanding of the anxiety that resulted from its failure to produce loyal subjects. For more information see, Philip J Stern, *The company-state: Corporate sovereignty and the early modern foundations of the British Empire in India* (Oxford University Press, 2011) 7.

Political scientists who interrogate the establishment of the British Empire in India have often returned to the Sepoy Mutiny as a political and historical watershed that led to a change in British conceptualization of the structure, function, and purpose of its Empire in India. Their engagement with the consolidation of British political authority in India has led to a plethora of theories, frameworks, and models that allow for a nuanced understanding of the establishment of the British Empire in India.[10] While these scholarly works offer an understanding of the dynamic political processes of the imposition of British authority in South Asia, it occludes an understanding of the political landscape over which British rule was imposed. Prior to the imposition of Crown Rule in India, the EIC officials had to make sense of and integrate themselves into the composite political and legal landscape created by the Mughal Empire and its successor states – a landscape of layered sovereignty, overlapping jurisdictions, and interconnected networks of imperial power.

Since Sir Thomas Roe's embassy to the court of the Mughal emperor Jahangir in the early seventeenth century, the landmass of the Indian subcontinent came to be represented in British maps as the "Empire of the Great Mogoll."[11] This representation was not limited to the British imagination. The Portuguese, French, and Dutch, who at various times since the sixteenth century settled, conquered and colonized parts of the Indian subcontinent, also

[10] Political scientists have traced the changes in the legal, political, and administrative ideologies, structures, and functions after the outbreak of the Sepoy Mutiny to the Nationalist movement in India. For Instance, Mithi Mukherjee offers an acute analysis of the role of "justice" in the consolidation of the British Empire in India in the nineteenth century. She argues that the Mutiny led to the creation of twin discourses of British imperial justice, namely, "justice as liberty" and "justice as equity", which allowed the British government to reconcile its "foreignness" while employing it to its political advantage in India. For more information see, [10] Mithi Mukherjee, *India in the Shadow of Empire: A Legal and Political History, 1774-1950* (Oxford University Press, 2010) pp. xvi-xix. Additionally, Karuna Mantena argues that the Sepoy Mutiny emphasized the failure of the liberal project of the British imperial enterprise in South Asia. It led to a shift in British imperial ideology from the "universalist" liberal civilizing mission to a "culturalist" need to maintain order – that is a shift from imposing European ideas of civilization to incorporating local socio-political relations in the governmental policies of the British Empire in India. This shift manifested in the theory and practice of "indirect rule" in India which was deeply influenced by Henry Main's conceptualization of the "traditional society." See Karuna Mantena, *Alibis of Empire: Henry Maine and the Ends of Liberal Imperialism* (Princeton University Press, 2010) pp. 2-10.

[11] Nandini Das, *Courting India: Seventeenth-century England, Mughal India, and the Origins of Empire*. First Pegasus Books cloth edition. (Pegasus Books, 2023) 43.

marked large swathes of the region as "Mughal India" on their maps.[12] Between the sixteenth to the early eighteenth century, the Mughal Empire was the major polity in Indian subcontinent.[13] However, after the death of emperor Aurangzeb in 1707, there was a shift in the nature of the Mughal Empire and the rise of powerful autonomous successor states, such as Awadh, Bengal, and the Maratha state.[14] After the Battle of Plassey in 1757, the Company State established by the EIC also emerged as a powerful political entity within the decentralized political landscape of the later Mughal Empire. Nonetheless, in the British imagination, the Mughal Empire continued to offer the overarching legal, political, and cultural framework that animated the socio-political realm of the Indian subcontinent.[15] By the nineteenth century, Mughal sovereignty no longer looked like conquest, centralization, or

[12] Manan Ahmed Asif, *The Loss of Hindustan: The Invention of India* (Harvard University Press, 2020) 1.
[13] Scholars refer to this period, marked by the emperors Akbar, Jahangir, Shahjahan, and Aurangzeb as the "high Mughal period" that was marked by military expansion, bureaucratic centralization, and the establishment of key administrative and legal institutions. Sanjay Subramanyam, "The Mughal state—Structure or process? Reflections on recent western historiography." *The Indian Economic & Social History Review* 29, no. 3 (1992): 291-321.295.
[14] Historians of the later years of the Mughal Empire have been embroiled in the decline vs decentralization debate. Some scholars, like Muzaffar Alam and Azfar Moin have persuasively demonstrated the enduring nature of Mughal political and administrative structures. See, Muzaffar Alam, *The Crisis of Empire in Mughal North India* (Oxford University Press, 2012) 59; and Azfar Moin, "The 'Millenium' of 1857: The last Performance of the Great Mughal" in *The Scaffolding of Sovereignty: Global and Aesthetic Perspectives on the History of a Concept*. Ed Ben-Dor Benite, Zvi, Stefanos Geroulanos, and Nicole Jerr (Columbia University Press, 2017), 323. While other scholars like Sanjay Subramanyam and C. A. Bayly have challenged the oriental decline vs European ascent but through nuanced comparative analyses. Their works have played a crucial role in registering the enduring and dynamic nature of Mughal imperial networks. For more information see, C. A. Bayly, "Distorted Development: The Ottoman Empire and British India, circa 1780-1916." *Comparative Studies of South Asia, Africa and the Middle East* 27, no. 2 (2007): 332-344; and Sanjay Subramanyam, *Empires Between Islam and Christianity, 1500-1800* (State University of New York Press, 2019) pp. 149-185.
[15] In analyzing the transformation occurring within the Mughal Empire in the eighteenth century, Muzaffar Alam argues that even though more and more nobles, landlords, and local communities began claiming unprecedented shares of power, they remained intimately integrated within the framework created by the Mughal Empire. See Alam, *The Crisis of Empire in Mughal North India,* 59. Similarly, Azfar Moin argues that Mughal Empire gave rise to a self-sustaining cultural and political logic within the Indian subcontinent through the dialogic and dynamic process of ritualization of its imperial sovereignty which was enforcing on all those who were incorporated within the Empire. See, Moin, "The 'Millenium' of 1857" 323. The enduring influence was not just ideological. Historians have traced the endurance of administrative institutions well into the twentieth century. For instance, Michel Fischer trances the evolution of the office the *akhbar nawis* and the idea of news. See Michael H Fisher, "The Office of Akhbār Nawīs: The Transition from Mughal to British Forms." *Modern Asian Studies* 27, no. 1 (1993): 45–82. https://doi.org/10.1017/S0026749X00016073. Abhishek Kaicker and Robert Travers have traced the continuation of the Mughal practice of petitioning within the British Empire in India. See Abhishek Kaicker, "Petitions and Local Politics in the Late Mughal Empire: The View from Kol, 1741." *Modern Asian Studies* 53, no. 1 (2019): 21–51, 23. https://www.jstor.org/stable/26599665.; and Roberts Travers, "Indian Petitioning and Colonial State-Formation in Eighteenth-Century Bengal" Modern Asian Studies 53, 1 (2019) pp. 89–122. 92. doi: 10.1017/S0026749X17000841. These scholarly works problematize an understanding of a marked discontinuity between the Mughal and British Empires in the nineteenth century.

political-military hegemony. Rather, the Mughal Empire and sovereignty were constituted through the imperial, intellectual, political, and legal networks that it created and consolidated. It was this enduring Mughal paradigm and these persistent imperial networks that were interrogated, persecuted, and transformed during the trial of Bahadur Shah Zafar in the British court of law.

The EIC officials were quick to recognize the need to acknowledge, understand, and engage with the political networks and administrative structures of the Mughal Empire. From the beginning of the seventeenth century, after being granted the British royal charter to trade in the East, EIC officials began negotiating favorable conditions for trade with the Mughal emperor.[16] Since it set up its first factory in Surat in the 1610s, the EIC was dependent on the Mughal *farman* to legitimize its presence in the region, facilitate trade activities, protect against unlawful interference by subordinate local officers, and (by the eighteenth century) authorize its political functions. The EIC became more firmly embedded in the Mughal paradigm after its victory in the Battle of Plassey and the grant of the *Diwani* rights of Bengal which allowed it to collect taxes and administer justice as the governor and vassal of the Mughal Empire.[17] The establishment of British political authority and emergence of colonial law was deeply influenced by, if not completely dependent on, the paradigm created by Mughal Empire. With the outbreak of the Sepoy Mutiny, which selected Bahadur Shah Zafar as the source of sovereign authority against the British, the latter was faced with the need to delegitimize the sovereignty of the Mughal emperor while legally asserting its own sovereign authority within the Indian subcontinent.

[16]Nandini Chatterjee, "Sharia Translated: Persian Documents in English Courts" in *Islamic Law in the Indian Ocean World: Texts, Ideas and Practices* edited by Mahmood Kooria, and Sanne Ravensbergen. 88-110. (Routledge, 2022) 92.
[17] Chatterjee, "Sharia Translated", 92.

The political arrangement that emerged by the eighteenth century was neither static nor stable. As the EIC became more secure in its position in the political landscape of India, it began negotiating more autonomy and exercising sovereign prerogatives within the Mughal Empire to further profitable trade. The EIC did not simply adopt Mughal institutions of administration but also actively began co-opting and transforming them.[18] This was reflective of the theory and practice of "divisible sovereignty" which had taken firm roots in the Law of Nations. Armed with the rhetoric of "civilization," the British officials legally justified their impetus to actively co-opt and transform Mughal administrative and legal structures to further their political and financial goals, while remaining under the guise of providing "good governance" to the native people while.[19] However, the Sepoy Mutiny violently disrupted this gradual trajectory of the establishment of British authority in India. After brutally repressing the Mutiny, the British were faced with the immediate need to restore order and impose law in the region. Questions regarding law and order in the Indian subcontinent led to a significant crisis not just within India but also in Britain. This crisis was reflective of the broader nineteenth century transnational British political project and imperial anxieties to order and incorporate newly conquered colonies and subjects.[20] After the Sepoy Mutiny, the

[18] Robert Travers, *Empires of Complaints: Mughal Law and the Making of British India, 1765-1793* (Cambridge University Press, 2022) 7.

[19] Edward Keene analyzes the development of the notion of "divisible sovereignty" within the framework of the European Law of Nations. Deeply influence by the nineteenth century rhetoric of civilization, the practice of "divisible sovereignty" allowed European states to co-opt existing native imperial administrative structures while allowing the native ruler to retain control of the sovereign prerogatives that they deemed him to be "competent" to exercise. For more information, see Edward Keene, *Beyond the Anarchical Society: Grotius, Colonialism, and Order in World Politics* (Cambridge University Press) 3.

[20] A. G. Noorani sheds light on the political debates that were taking place in London regarding the cause of the Sepoy Mutiny in India. He focuses on two of the most prominent voices – F. W. Buckler and H. L. O. Garrett. Buckler argued that the EIC was positioned as a vassal of the Mughal emperor in India. According to him, EIC official's disrespect to the monarch and the bureaucratic structures of the Mughal Empire led to the popular uprising. On the contrary, H. L. O. Garrett argues that the EIC had been well on its way to making itself the key political power in the subcontinent – a trajectory that was disrupted by the Mutiny. These debates reflect the anxieties regarding order and stability that were spreading throughout the metropole. For more information see A. G. Noorani, "The Trial of the Last Mughal Emperor (1858): Bahadur Shah Zafar" in *The Political Trials 1775-1947* (Oxford University Press, 2005) pp. 80-82. For more information regarding the nineteenth century British imperial projects and anxieties to impose law on newly conquered colonies, see Lauren Benton and Lisa Ford, *The Rage for Order: The British Empire and the Origins of International Law, 1800-1850* (Harvard University Press, 2016) 6. One of the major concerns of the British Empire was to establish and maintain

main task of the British officials in India was to gain control of the legal, administrative, and intellectual networks that hitherto depended on the Mughal sovereign. This required a restructuring of the colonial episteme that legally justified British sovereign authority in India. This would only be possible by legally deposing the Mughal emperor and delegitimizing the sovereign authority of Bahadur Shah Zafar.

The trial of Bahadur Shah Zafar was foundational to the establishment of Crown Rule in India. It reconciled the challenge posed to colonial authority by the Sepoy Mutiny by restructuring the colonial episteme, which enfolded the pre-colonial Mughal imperial realm into the British Empire. In this paper, the colonial episteme refers to a domain of knowledge produced through the establishment of the British Empire in India.[21] The institution of the law was central to the emerging colonial episteme, which, in turn, produced and imposed normative meanings of sovereignty, subjecthood, and empire within the Indian subcontinent. The trial led to a legal delegitimization of the Mughal Empire – this included Mughal sovereignty, subjecthood, and the very logic that defined the empire. This did not necessarily mean a dramatic dismantling of all previous meanings and structures. Rather, it meant that all law, subjecthood, and socio-political paradigm in the Indian subcontinent now emanated from the British Crown. The proceedings of the trial itself articulate the complex process by which

diplomatic relations with the Mughal Empire, which was characterized under the organizing legal category of "oriental despotism" and thus, kept outside of the "Family of Nations." For more information see, Jennifer Pitts, *Boundaries of the International: Law and Empire* (Harvard University Press, 2018) 37.

[21] Foucault uses the term "episteme" to refer to the conditions that make certain forms of knowledge possible within a particular historical period. He defines "episteme" as a set of rules, fundamental assumptions, and pervasive beliefs that determine what can possibly be thought about, what can be considered truth, and how knowledge is produced during a particular historical period. For more information see, Foucault, Michel. *The Order of Things: An Archaeology of the Human Sciences.* (Vintage Books. 1994) 31. Building on this preliminary definition, this paper is fundamentally interested in understanding how sovereignty is thought about in the changing episteme within the Indian subcontinent during the nineteenth century. By focusing on the trial and the invocation of the discourse of the law, this paper aims to understand how the colonial episteme was restructured after the Sepoy Mutiny in 1857. Further, it aims to analyze how the restructuring of the colonial episteme shaped the sovereignty in the Indian subcontinent.

the law was used to delegitimize the Mughal Empire, establish Crown rule, and shift the locus of colonial authority from the Mughal sovereign to the British monarch.

This paper argues that in the Indian subcontinent, sovereignty was not just a divinely ordained transcendental abstraction; rather it was sustained within complex administrative, legal, and intellectual networks. By proving the treason of the Mughal emperor within the British court of law, the trial legally enfolded these networks into the colonial episteme, and justified the British Crown's claims to sovereign authority in India. To elucidate this argument, this paper critically analyses three types of evidence presented during the trial, namely: documentary evidence, testimonies, and newspaper reports. Each evidence was a product of a pre-existing Mughal imperial networks. By presenting them as proof of Mughal treason within the British court of law, the trial allowed the British Empire to claim control of these networks while simultaneously justifying British claims to sovereign authority in India after the Sepoy Mutiny.

Constructing Mughal Treason in the British Court of Law

The British siege of Delhi ended with the imprisonment of Bahadur Shah Zafar on 21st September 1857. The victorious Major William Hodson captured the emperor from his place of refuge – the Mughal mausoleum known as Humayun's tomb. The emperor's sons were shot in cold blood in the tomb while Bahadur Shah Zafar, his wife, Zinat Mahal, and the heir apparent, Jawan Bhakt, were imprisoned. In his negotiations for the emperor's surrender, Major Hodson "guaranteed" the life of the Mughal emperor.[22] Thus, the Mughal emperor became a "prisoner" of the British Empire. Until the outbreak of the Sepoy Mutiny, while the EIC was negotiating more and more autonomy in the Indian subcontinent, it did not overtly

[22] Noorani, "The Trial of the Last Mughal Emperor (1858)," 76.

reject or renounce Mughal sovereignty.[23] After gaining decisive military victory against the Sepoy Mutiny, and with the more direct involvement of the British Crown in the Indian subcontinent, there was a need to legally justify British claim to sovereign authority in India – in a manner that was legible to Indians, Britons, and other European empires in the Family of Nations. The spectacle of the trial of Bahadur Shah Zafar consolidated the colonial episteme, which allowed for the construction of Mughal treason within the British court of law. This involved, most importantly, a definitive statement of the charges of "treason" against Bahadur Shah Zafar.

The primary concerns of the charges against Bahadur Shah Zafar were fourfold – (1) aiding and abetting leaders of the Sepoy Mutiny such as Muhammad Bakht Khan and Mirza Moghal, (2) instigating British subjects to rebel and wage war against the State, (3) as the subject of the British Government in India, disregarding his allegiance, declaring himself sovereign, and traitorously seizing control of Delhi, and (4) Acting as an accessory to the murder of forty-nine European persons.[24] During the reading of the charges the Mughal emperor, Bahadur Shah Zafar, was referred to as "subject of the British Empire," "pensioner of the British Government of India", and "a traitor against the State."[25] The categorization of the Mughal emperor as a "subject" of the British Empire served a clear political purpose: to delegitimize Bahadur Shah Zafar's sovereign authority by fixing his legal status as that of a subject of the British Empire.

The spectacle of the trial aimed at fundamentally reconstituting the legal order that had evolved in the Indian subcontinent. Till the beginning of the Sepoy Mutiny in 1857, there

[23] Nayar, *The Trial of Bahadur Shah Zafar*, xvi.
[24] Charges, Trial of Muhammad Bahadur Shah, 1.
[25] Charges, Trial of Muhammad Bahadur Shah, 1. Many scholars have contested the validity of these charges and categorization of the Mughal emperor. See Mir Waheed Aklaq and Muhammad Akmal Soomro, "Military Trial of Emperor Bahadur Shah Zafar: An Assessment of its Legitimacy." *Harf-o-Sukhan* 8, no. 2 (2024): 343-359; and Aman Kumar, "Trial as a Tool of Colonialism: The 1858 Trial of Mughal Emperor Bahadur Shah Zafar", *International Criminal Law Review* 22, 1-2 (2022): 166-188.

existed a longstanding, yet contentious, diplomatic relationship between the British and the Mughal Empires mediated by the EIC – whose legitimacy and trading activities in the Indian subcontinent were fundamentally dependent on both British royal charters and Mughal *farmans*. Since the seventeenth century, the British Empire had recognized the sovereignty of the Mughal Empire – both the status of the Mughal emperor within the existing political networks and hierarchies in the Indian subcontinent, and the Mughal emperor's ability to welcome, respect, and incorporate diplomatic envoys of the British Crown at his court.[26] However, by the nineteenth century, influenced by the Law of Nations and its rhetoric of "oriental despotism," the British Empire conceptualized the Mughal Empire as being internally lawless and existing outside the European Family of Nations.[27] Conversely, the Mughal emperors were also cautious about entering diplomatic relations with the British Empire mediated by the EIC. This is because the Mughal emperors initially recognized the EIC as a merchant company and not as an official representative of the British Empire, even though the EIC had received quasi-sovereign powers from the British royal charters. Instead, to permit EIC trading activities in the Indian subcontinent, the Mughal emperor issued unilateral *farmans.*[28] It was only after the victory of the EIC in the Battle of Plassey that the Mughal emperor granted the *Diwani* of Bengal to the EIC and brought into the bureaucratic framework of the Empire and therefore began entering into treaties with the EIC.[29] However, by this time, the nature of the EIC was also transforming. As the EIC was negotiating more and more autonomy within the Indian subcontinent, the British government was becoming more directly involved in the form, function, and legation of the Company. By the nineteenth

[26] C. H. Alexandrowicz, *An Introduction to the History of the Law of Nations in the East Indies: (16th, 17th and 18th Centuries)* (Clarendon P., 1967) 15.
[27] Pitts, *Boundaries of the International*, 28.
[28] Alexandrowicz, *An Introduction to the History of the Law of Nations in the East Indies,* 18.
[29] Alexandrowicz, *An Introduction to the History of the Law of Nations in the East Indies,* 18.

century, a volatile diplomatic network structured through legal treatises had evolved in the Indian subcontinent.

The Sepoy Mutiny dramatically disrupted this tenuous network. The unfolding of the events of the uprising resulted in widespread violence – both in the actions of the sepoys and their violent repression by British forces. There was an urgent need to legally reconcile this violence and consolidate a colonial episteme that justified British sovereign authority in India. European states often cited "betrayal" and "failure" to uphold treaty obligations to mobilize armies to seize enemy lands.[30] Similarly, during the trial of Bahadur Shah Zafar, the charges accused him of having failed in the "duty of his allegiance" to the British Empire by unlawfully taking possession of the city of Delhi and enabling a rebellion that killed European individuals.[31] However, one must caution against using the terms "betrayal" and "treason" interchangeably. While "betrayal" may involve an unlawful violation of trust, confidence, or, in this case, contractual obligation, "treason" connotes a crime against the State. More importantly it assumes that the treasonous individual is a subject of the State. By accusing the Mughal sovereign of treason within the British court of law, the trial fixed the legal subjecthood of Bahadur Shah Zafar within the British Empire. Further, the accusation of treason functioned as a rhetorical device aimed at subsuming the Mughal imperial realm within the British Empire. This rhetoric was solidified as truth during the trial through the production of evidence in a British court of law and the restructuring of the colonial episteme.

In his opening address to the court, the prosecutor for the government, Deputy Judge Advocate General F. J Harriot emphasized the political character of the trial:

> The trial, whether it be considered in reference to the once exalted rank of the prisoner, to the position which his birth and descent still give him in a political point of view, to the magnitude of the crimes imputed to him, or his connexion

[30] Lauren Benton, "The Legal Logic of Wars of Conquest: Truces and Betrayal in the Early Modern World,43" Duke Journal of Comparative and International Law 28, no. 3 (Spring 2018): 425-448. 428.
[31] Charges, Trial of Muhammad Bahadur Shah, pp.1-2.

> with the events which will forever remain recorded in the pages of history, must be of no ordinary interest. The trial, indeed, will be an unusual one, for, under all circumstances, it will close with the verdict; but still that verdict will be looked for by thousands with feelings such as are seldom awakened by the proceedings of a court of criminal jurisdiction.[32]

Harriot acknowledged the once "exalted rank" of the Mughal emperor, but placed that rank firmly in the past. He shed light on the various short coming of the Military commission that did not possess the "competency" to pass a sentence or convict the Mughal emperor whose life had already been "guaranteed."[33] Nonetheless, he argued that in order to avoid objections of being "unjust" or "one sided," Bahadur Shah Zafar should be subjected to a "direct trial" wherein charges should be framed, evidence presented, and the "ex-king" called upon to plead to them.[34] Harriot's opening address reflects a political imperative characterized by an obsessive portrayal of the British Empire as a "just" empire. To prove Mughal treason against the British Empire, Harriot continuously reiterated the need to produce evidence of Bahadur Shah Zafar's involvement in the Sepoy Mutiny. He states that, "the evidence submitted (during the trial) may not be strictly on the charges that have been perused. It is deemed that all the circumstances connected with the late rebellion, even though not in direct relation to the indictment, be appropriately recorded."[35] A wide variety of evidence was presented during the trial – including administrative documents, testimonies, and newspaper reports. Each type of evidence was a product of a particular legal, administrative, and intellectual network that constituted the Mughal imperial realm. By presenting these evidences as proof of Bahadur Shah Zafar's treason, the British court of law did not simply exert control over these networks but enfolded them into the colonial episteme by transforming its inherent logic.

[32] F. J. Harriot, "Address to the Court", Trial of Muhammad Bahadur Shah, 4.
[33] F. J. Harriot, "Address to the Court", Trial of Muhammad Bahadur Shah, 4.
[34] F. J. Harriot, "Address to the Court", Trial of Muhammad Bahadur Shah, 3.
[35] F. J. Harriot, "Address to the Court", Trial of Muhammad Bahadur Shah, 3.

Court Records and the Burden of Evidence

The first type of evidence presented during the trial of Bahadur Shah Zafar was the "documentary evidence." The "documentary evidence" presented in the British court of law mainly consisted of Mughal court records which followed the Persianate courtly formulaic structure.[36] These Mughal court records included two types of documents – petitions submitted to the court of Bahadur Shah Zafar by the subjects of the Mughal Empire and the Mughal emperor's responses or "orders."[37] While few of these documents were written by Bahadur Shah Zafar himself, most of them were written or recorded by his secretary, Mukund Rai. However, almost all of them bore the impression of the Mughal State Seal. Each "documentary evidence" were a product of the dynamic administrative and intellectual network that structured the relationship between the sovereign and the subjects within the imperial realm of the Mughal Empire. Within the context of the trial, the "documentary evidence" were not just decontextualized from these networks to prove the treason of the Mughal Emperor. Rather, the network itself was enfolded into the colonial episteme which allowed the British Empire to claim control and manipulate it to serve its political and legal purposes.

The administrative and intellectual network, within which the "documentary evidence" was created and circulated, was fundamentally dependent on the sovereignty of the Mughal emperor. Since the sixteenth century, the Mughal emperors began fashioning

[36] All the petitions followed a formulaic structure that began with a salutation, such as "To the King!", "Shelter of the World!", "Nourisher of the Poor!", and ended with an appeal to the Mughal emperor to administer justice and restore order in the realm. While Mughal orders began with signature and seal of the Mughal emperor. See, Trial of Muhammad Bahadur Shah Zafar, pp. 5-100.

[37] These documents were first translated from Persian to English and then presented during the trial. In his analysis of the practice of petitioning within the Mughal Empire, Abhishek Kaicker argues that within the administrative and bureaucratic structure, that is organized around the figure of the Mughal emperor, all communications took the form of wither a "petition" (written by an inferior) or "order" (response by the emperor or his officers). For more information, see, Abhishek Kaicker, "Petitions and Local Politics in the Late Mughal Empire: The View from Kol, 1741." *Modern Asian Studies* 53, no. 1 (2019): 21–51. 27.

themselves as "millenarian" figures and sacred kings who, endowed with divinely sanctioned "*daulat,*" were the source of justice in the realm.[38] The practice of petitioning became central to the legal and administrative logic of the Mughal Empire – whereby subjects petitioned the sovereign to administer justice and the Mughal emperor would respond with necessary verdicts or orders. The aim of the legal apparatus of the Mughal Empire was to accommodate the vastness, diversity, and pluralism of legal orders within its realm.[39] This necessitated the Mughal legal apparatus to be dynamic and dialogic. As a Muslim empire, the Mughal Empire's legal apparatus maintained the *sharia* as its vital element. However, by the seventeenth century the *sharia* no longer occupied the central place in the Mughal political discourse that it once had; rather, it became infused with the Persian treaties of ethics (*akhlaq)*.[40] This allowed the Mughal Empire to effectively incorporate the large non-Muslim population of the Indian subcontinent into its imperial realm. Further, at the local level, the Mughal legal framework incorporated the *qazis's* (jurist's) interpretation of the *sharia* which incorporated and accommodated local norms and customs.[41] Thus, the legal and administrative networks within the Mughal Empire, organized around the sovereign, sustained and structured the relationship between the emperor and his subjects.

By the nineteenth century, the EIC was deeply embedded within the legal and administrative networks of the Mughal Empire. Prior to the Battle of Plassey, the EIC adopted formulaic Persianate language to petition the emperor for favorable trading rights.

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[38]Kaicker has shed light on the ideal of "*Daulat"* that animated the discourse of sovereignty within the Mughal Empire. "*Daulat*" denoted a mark of God's approbation, which established the king over the Earth for the enactment of justice. Abhishek Kaicker, *The King and the People: Sovereignty and Popular Politics in Mughal Delhi* (Oxford University Press, 2020), 58.

[39] Alam, *The Languages of Political Islam,* 4.

[40] Alam traces the development of the language of political Islam trough the overlapping of the *sharia* and *akhlaq* traditions of the law that shaped the idea of justice within the Mughal Empire. For more information see Alam, *The Languages of Political Islam,* 5. Additionally, Rajeev Kinra traces the development of the idea of *sulh-i-kuhl,* an ideology that aimed to promote "civility" towards all those who came under the umbrella of the Mughal Empire. For more information, see Kinra, *Writing Self, Writing Empire,*17.

[41] Hasan, State and Locality in Mughal India, pp. 66-72.

With the grant of the *Diwani* of Bengal, as the governor of the Mughal emperor, the EIC became the arbitrator of these petitions. In the initial years, the EIC fashioned itself as the guardian of the "Mughal constitution" in Bengal. [42] However, this era of Company State-building was marked by tensions resulting from the overlapping of differing forms of imperial legalism. [43] EIC officials often expressed disdain for the despotic form of Mughal rule and the arbitrariness of the "Mughal constitution." [44] From the eighteenth century, the EIC embarked on a program of legal centralization aimed at creating a fiscally ambitious regional state in Bengal. This entailed an alteration of how the Company-State responded to the petitions and administered justice by invoking the British constitution and common law. Nonetheless, until the Sepoy Mutiny, the EIC's ambitions of a legal centralization remained incumbent on the decentralized Mughal administrative structures. It was only during the trial of Bahadur Shah Zafar that the British officials actively rejected the legitimacy of the Mughal emperor' sovereign authority. One way that the trial achieved this was by using these "documentary evidences" to prove Bahadur Shah Zafar's treason and enfolding these legal and administrative networks into the colonial episteme.

During the trial, Harriot organized and presented these "documentary evidence" under five categories: miscellaneous, loan, pay, military matters, and murders.[45] By enfolding them into the colonial episteme and imposing an evidentiary value, the trial operationalized these "documentary evidence" to serve the British imperial purpose of proving Mughal treason and delegitimizing the sovereignty of Bahadur Shah Zafar. Harriot first presented the miscellaneous "documentary evidence" to justify the British assumption of legal and political authority in India by foregrounding the incompetence of the Mughal emperor and the

[42] Travers, *Empires of Complaints,* 61.
[43] Travers, *Empires of Complaints,* 61.
[44] Travers, *Empires of Complaints,* 61.
[45] F. J. Harriot, "Address to the Court", Trial of Muhammad Bahadur Shah, 4.

discontentment of Mughal subjects. For instance, the petition by Chand Khan and Ghulab Khan sheds light on the disruption in Paharganj caused by the Sepoys. They mention that the township of Paharganj had always borne the "royal name", however, in recent times the "troops of the state… (were) oppressing the shopkeepers, forcibly taking away their wares without payment, entering the houses of the destitute, and carrying away articles like beds, woods, and vessels."[46] Further, they mentioned that wearied by the oppression by the army, they were reduced to the necessity to petition the emperor to restore order in the region.[47] In another petition, Saligram, a proprietor of Bullock Train sheds light on the disruption of trade routes caused by the Mutiny. He states that the bullock train's route, which had been long-running between Delhi and Mathura had been disrupted by the "disrupted state of the country." As his wagon and goods were stranded, he appealed to the king to restore order and regain his possessions.[48] Rather than treasonous Mughal involvement in the Sepoy Mutiny, these petitions indicate that the subjects appealed to the Bahadur Shah Zafar to intervene and restore order during the upheaval of the Sepoy Mutiny.[49] In response to these petitions, Bahadur Shah Zafar unsuccessfully issued orders preventing the army from continuing its onslaught. In one order to Mirza Moghal, the Mughal prince commander of the armed forces, the emperor expressed his disappointment regarding the actions of the sepoys by stating that even though an order was issued with the Mughal seal, "prohibiting acts of devastation against petitioners," the violence and disruption continued. [50] Taken together, the

[46] Joint Petition of Chand Khan and Ghulab Khan, on behalf of themselves and other residents Jysingpur and Shahganj, otherwise known as Paharganj, dated 19th June 1857 Trial of Muhammad Bahadur Shah, pp.10-11.
[47] Joint Petition of Chand Khan and Ghulab Khan, on behalf of themselves and other residents Jysingpur and Shahganj, otherwise known as Paharganj, dated 19th June 1857. Trial of Muhammad Bahadur Shah, 11.
[48] Petition of Saligram, Proprietor of Bullock Trains, 28th July 1857, Trial of Muhammad Bahadur Shah, 28.
[49] Few other petitions more assertively demanded the restoration of the law by the emperor. Nabi Baksh, a wealthy merchant of Delhi, demanded that the emperor stop the sepoys from killing women, children, and all other prisoners by insisting that by not sanctioning the slaughter, the emperor was going against the laws of the Prophet**.** See, Petition of Nabi Baksh, Trial of Muhammad Bahadur Shah36.
[50] Order under the King's Special Cypher, in Pencil, in Autography, dated 18th June 1857, Trial of Muhammad Bahadur Shah, 10.

"miscellaneous documentary evidence" provides a complex picture of the chaos caused by the Sepoy Mutiny.

During the trial, these documents were used to prove Bahadur Shah Zafar's knowledge of the Mutiny and fabricate his treasonous unwillingness, rather than inability, to restore order. By presenting these documents as evidence, the trial changed the underlying logic of the networks within which these documents were created and consolidated. The practice of petitioning had long been a part of the body politic of the Mughal Empire which structured the mutually constitutive relationship between the sovereign and the subject. Through the petitions, the subjects aired their grievances to illicit an intervention of the sovereign. However, the practice assumed that the Mughal sovereign was the ultimate source of authority, and it was only he or his delegates who could administer justice. By enfolding these administrative networks into the colonial episteme, the British court of law imposed an evidentiary value on these documents, which limited the scope of these petitions and exaggerated the discontent of the people under Mughal governance – specifically, during the Sepoy Mutiny. This, in turn, justified the British Empire to legally depose the emperor and claim control over the imperial administrative networks to restore order in the Indian subcontinent.

Harriot's presentation of "documentary evidence" categorized as "loans" and "payments" was more acute in its accusation of Bahadur Shah Zafar's treason. These "documentary evidence" consisted of Mughal financial and administrative records which addressed both the disruption caused by the Mutiny and ways to finance the demands of its armed forces – which Harriot conflated with the mutinous sepoys. Using these documentary evidence, Harriot accused Bahadur Shah Zafar of raising funds to finance the Sepoy Mutiny. In so doing, the trial manipulated the logic of the larger financial and obligatory networks that produced these documents. Since the outbreak of the Sepoy Mutiny in May 1857, most of the

Bahadur Shah Zafar's court orders to Mirza Moghul, shed light on the financial difficulties to manage the daily expenditure of the troops or defray urgent expenses of the artillery.[51] One way in which the Mughal court addressed these new financial demands was by organizing short term obligatory loans from the merchants of Delhi, which were often hastily met because of the reassurance of repayment and the possibility of favorable appointments to the Mughal court.[52] As the sovereign, Bahadur Shah Zafar had the authority to and regularly demand obligatory loans from his subjects, which, in turn, played an important role in animating the financial and obligatory networks that sustained the Indian subcontinent. This is most evidently seen in his order issued on 19th August 1857, at the height of the Sepoy Mutiny, to the members of the Mughal court:

> Consider yourselves receiving mercies and learn! That as agreeably to the request of you, devoted and zealous servants of the State, you are being empowered to arrange and work out all matters and affairs, general and particular connected from collecting of the revenue from the country, and bringing to a satisfactory issue the project of a loan from the merchants… It is incumbent on you that you act with zeal and integrity in the matter with which you are intrusted.[53]

Through the juxtaposition of the "documentary evidence" of "loans" and "payments", the Mughal emperor emerges as the central figure in the dynamic financial and obligatory networks that animated the Indian subcontinent. By presenting these documentary evidence within the British court of law, these networks were enfolded within the colonial episteme and burdened with the evidentiary value to serve as proof of treason against Bahadur Shah Zafar. Thus, by changing the underlying logic of the financial networks of the Indian subcontinent,

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[51] Order under the Seal engraved in the King's special Cypher, dated 28th July 1857, Trial of Muhammad Bahadur Shah, 61.

[52] For instance, the emperor demanded a temporary loan of 4,198 rupees and 9 ½ annas from Brindaban who held the position of Treasurer to the Mughal Artillery as well as a loan of 5300 rupees from the merchant Gangaram Peon. See Order under the Seal engraved in the King's Special Cypher (to Brindaban alias Bindi Mall, Treasurer to the Artillery), Dated 29th July 1857, Trial of Muhammad Bahadur Shah, , pp. 61-62; and Order under the Seal engraved in the King's Special Cypher (to Rai Mukund Lal Bahadur), Dated 29th July 1857, Trial of Muhammad Bahadur Shah, 62; and Petitions from Mathura Das, Salig Ram and Nabi Baksh, Trial of Muhammad Bahadur Shah, pp. 64-65.

[53] Order under the Seal engraved in the King's Special Cypher (to Members of the Court), Dated 19th August 1857, Trial of Muhammad Bahadur Shah, pp.63-64.

the trial cemented the Mughal emperor's treason of actively financing the Sepoy Mutiny. This provided the legal justification to depose Bahadur Shah Zafar, decentralize the Mughal emperor, and claim control of the imperial financial networks.

During the trial, Harriot also included a number of courtly correspondences between the Bahadur Shah Zafar and his vassal, Rajah Nahar Singh of Ballabhgarh. These "documentary evidence" were presented to shed light on Bahadur Shah Zafar's treasonous political support for the sepoys and the instability it generated within the Mughal political structures and bureaucratic structures. Harriot presented a selection of correspondence that overlapped with the outbreak of the Sepoy Mutiny in early May, 1857. During this period, in accordance with the Mughal bureaucratic practices, Nahar Singh was endowed with the responsibility to maintain law and order in Ballabgarh in the name of the Mughal Emperor. [54] In these correspondence, Nahar Singh was requesting Bahadur Shah Zafar's permission to set up police stations on the road connecting Ballabhgarh and Delhi.[55] Harriot's curation of the correspondence emphasized an instability within the Mughal bureaucratic system. While none of Nahar Singh's correspondence questioned the sovereignty of the Mughal emperor, his later correspondence records a shift in Bahadur Shah Zafar's political attitudes and his own anxiety to remain in the good graces of the emperor. The initial correspondence was marked by Nahar Singh's zeal to subdue the mutinous sepoys. By the month of August of 1857, his correspondence reflects his anxiety of falling into the emperor's disfavor after the latter decided to support the Sepoy Mutiny.[56] During the trial, Harriot presented these "documentary evidence" as decisive evidence of the Mughal emperor support for the Sepoy Mutiny and his treason against the British Empire.

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[54] Petition of Rajah Nahar Singh of Ballabgarh, Trial of Muhammad Bahadur Shah, 44.
[55] Petition of Rajah Nahar Singh of Ballabgarh, Trial of Muhammad Bahadur Shah, 44. Interestingly, while the Mughal emperor obliged this request, he appointed his own trusted people to oversee this endeavour. See Petition of Rajah Nahar Singh of Ballabgarh, dated 21st May 1857, Trial of Muhammad Bahadur Shah, 46.
[56] Petition of Rajah Nahar Singh of Ballabgarh, Trial of Muhammad Bahadur Shah, 50.

Evidently, the Sepoy Mutiny had disrupted the already strained political and diplomatic ties of the Mughal realm. Harriot exploited this political disruption by presenting this correspondence as documentary evidence. By doing so, the trial enfolded the documents and their larger political and administrative networks into the colonial episteme to prove Bahadur Shah Zafar's treason. Within the British court of law, these documents established the disjuncture between the sovereign and his bureaucracy. By demonstrating Bahadur Shah Zafar's inability to effectively govern and command the Mughal bureaucratic structures, the colonial episteme produced by the trial legally justified the British Empire to claim control over the political networks, bureaucratic structures, and sovereign authority in the Indian subcontinent. Thus, the trial played an important role in enfolding the political landscape into the British Empire. However, there is a need to interrogate how the emerging colonial episteme and the changing imperial order enfolded erstwhile Mughal subjects into the British Empire.

Mughal Courtiers and the Testimonies of Treason

The second type of evidence presented during the trial of Bahadur Shah Zafar was eyewitness reports. Several individuals were called to testify during the trial, including three of the most exalted members of the Mughal court – namely: Ghulam Abbas (the advocate of the Mughal emperor), Ahsan Ullah (the physician of the Mughal emperor), and Mukund Rai (the secretary of the Mughal emperor). The inclusion of the testimonies of Mughal courtiers was aimed to not just provide evidence of Bahadur Shah Zafar's treason, but also to fend off accusation of the trial being "unjust" or "one-sided" by Indians, Britons, and members of the Family of Nations.[57] It is beyond the scope of this analysis to ascertain if these Mughal

[57] F. J. Harriot, "Address to the Court", Trial of Muhammad Bahadur Shah, 3.

courtiers were collaborating with or coerced by British officials.[58] Further, this section does not aim to determine the validity of these testimonies. Instead, by focusing on the content of the testimonies and questions posed by the court, this section analyses how these testimonies became enfolded into colonial episteme through the interrogation of its authenticity within the British court of law. The trial enfolded these testimonies into the colonial episteme and, in so doing, fundamentally altered the political and legal networks that sustained the sovereign-subject relationship within the Mughal Empire. The trial and the colonial episteme that it produced established the British court of law, instituted in the name of the British Crown, as the legal authority empowered to exercise the sovereign prerogative to determine both the legitimacy of evidence and the nature sovereign-subject relation in the Indian subcontinent.

The inclusion of the testimonies of these Mughal courtiers shed light on a legal paradox: on the one hand, the British court of law recognized the legitimacy of the testimonies based on the individual's proximity to the emperor offered by their exalted position at the Mughal court. Conversely, the trial actively persecuted Bahadur Shah Zafar and delegitimized Mughal sovereignty, which had conferred this legitimacy to the Mughal courtiers and their testimonies. Members of the court were primarily subjects of the sovereign who held exalted offices within the Mughal Empire and exercised significant influence on the emperor. By legally deposing Bahadur Shah Zafar, the trial fundamentally disrupted the Mughal political network that sustained the mutually constitutive relationship between the sovereign and its subjects. Within the Mughal Empire, sovereign authority was understood to be located within the body of the emperor. Thus, sovereign authority was

[58] The transcript of the trial does not provide any information about the decision of the Mughal courtiers to take part in the trial. The archive is limited to British court of law's record of the testimonies and the questions posed to them. See, The Trial of Muhammad Bahadur Shah Zafar, pp. 38-44, 136-148, 149-154.

exercised through the body of the emperor over its subjects within the realm of the empire.[59] Nonetheless, Mughal sovereignty depended on the adherence of its subjects. This mutual dependence produced a dynamic political network within which the subjects sought authoritative support while the Mughal emperor broadened his acceptance and legitimacy.[60] The Mughal court represented a microcosm of this larger political networks. By deposing Bahadur Shah Zafar, the trial invalidated the logic of the political network and the sovereign-subject relationship. Through the inclusion and interrogation of these testimonies, the trial shaped the colonial episteme which justified British claims over the political network and the systematic disentangling of Mughal sovereignty from the core of subjecthood in the Indian subcontinent.

The questions posed to all three Mughal courtiers – Ghulam Abbas, Ahsan Ullah, and Mukund Rai – were aimed at uncovering various aspects of Bahadur Shah Zafar's involvement in the Sepoy Mutiny. In all three cases, the interrogation began with a common question: "Where were you on the morning of the 11th of May, 1857, when the mutinous troops came from Meerut?"[61] By posing the question, the British court of law aimed to established the proximity of the Mughal courtiers to the emperor during the Sepoy Mutiny. As these individuals held few of the highest offices within the Mughal Empire, they were required to be present at the palace regularly. The questions posed to Ghulam Abbas were mainly aimed at determining Bahadur Shah Zafar's prior knowledge of and involvement in the Sepoy Mutiny. In his testimony, Ghulam Abbas stated that while the Mughal emperor did not have any prior inkling of the uprising. However, when the sepoys demanded his support, Bahadur Shah Zafar accepted their alliance by "placing his hand on the sepoys' bowed

[59] Abhishek Kaicker argues that the Mughal emperor, as possessor of "*daulat*", was to administer justice within the Mughal Empire. This sovereign prerogative to administer justice bound the Mughal emperor to his subjects. For more information see, Kaicker, *The King and the People,* pp. 58-65.
[60] Kaicker, *The King and the People,* 3.
[61] Trial of Muhammad Bahadur Shah, 38.

head."[62] Ghulam Abbas's testimony played a crucial role in constructing Bahadur Shah Zafar's treason within the British court of law.

During his testimony, the British officials repeatedly questioned him about his own position in the Mughal court. Harriot posed two questions to Ghulam Abbas: "Had you any opportunity of knowing what passed in the palace, or the subjects of general conversation that were indulged in prior to the outbreak?" and "Were you so much in the confidence of the king, or those that might be as to be entrusted with any secrets or measures that they might wish to conceal from the British Government?"[63] Ghulam Abbas stated that, even though he held one of the highest offices within the Empire and was privy to most of the conversations in the Mughal court, the Mughal emperor was more likely to consult and entrust Ahsan Ullah and other members of the court who were regularly present at the palace.[64] In his testimony, Ghulam Abbas mentioned a number of similar routine occurrences and mundane fact about the Mughal court that rested on the sovereignty of the emperor.[65] By emphasizing his exalted position within the Mughal court, the British court of law construed these occurrences and facts as markers of treason of the Mughal emperor. It obscured the basis of Ghulam Abbas's privileged position and subjecthood – that is, its imbrications with the sovereignty of the Mughal emperor. By including Ghulam Abbas's testimony, the trial solidified Mughal treason within the colonial episteme which, in turn, enfolded and altered the political network of the sovereign-subject relationship in the Indian subcontinent. In so doing, the trial played an

[62] Ghulam Abbas explained that this gesture of the emperor was equivalent to an acceptance of their (the sepoys) allegiance. See, Trial of Muhammad Bahadur Shah, 40. Scholars such as Amar Farooqui have argued that in accepting the allegiance of the sepoys, Bahadur Shah Zafar was exercising his prerogative as the sovereign of the Mughal Empire. For more information see, Farooqui, *Zafar and the Raj*, 145.
[63] Trial of Muhammad Bahadur Shah, 42.
[64] Trial of Muhammad Bahadur Shah, 42.
[65] The final question posed to Ghulam Abbas was regarding the "state seal" that was used on all documents that incriminated the Mughal emperor. To which he responded: "The state seal remained in the emperor's private apartments." While this statement reflects a seemingly mundane fact about the Mughal court that rested on the sovereignty of the emperor, the British court of law understood it as proof that no one else could have created the treasonous documents that incited the mass to rise against the British. For more information, see, Trial of Muhammad Bahadur Shah, pp. 2- 5.

important role in beginning to disentangling Mughal sovereignty from subjecthood by deposing the Bahadur Shah Zafar.

The questions posed to Ahsan Ullah during his testimony were aimed at determining the role of Bahadur Shah Zafar in the killings of the European people during the Sepoy Mutiny. A central question posed to him during his testimony was: "How was it that so many English women and children were brought to the palace and placed in confinement?" [66] In his response, Ahsan Ullah echoed Ghulam Abbas's testimony and confirmed that Bahadur Shah Zafar had no prior knowledge of the Sepoy Mutiny. Further, he stated that it was the sepoys who had taken over the palace that killed the Europeans.[67] By quoting that Bahadur Shah Zafar was the selected figurehead of the Sepoy Mutiny and the source of authority in the palace, the British court of law manipulated Ahsan Ullah's testimony, and declared that it was the Mughal emperor who ordered the killings of the Europeans – either by directly ordering it or indirectly by not preventing the sepoys.[68] Nonetheless, Ahsan Ullah's testimony was an important piece of evidence during the trial of Bahadur Shah Zafar's treason.

The British court of law did not simply confer legitimacy, rather, it imposed an evidentiary value on Ahsan Ullah's testimony. As the physician to the ailing octogenarian Mughal emperor, Ahsan Ullah spent nearly every waking hour with Bahadur Shah Zafar. The British court of law interpreted this proximity as an indication that Ahsan Ullah was one of the few people in the Mughal Empire who knew the rationales of the Mughal emperor.[69] However, Ahsan Ullah's testimony reveals an anxiety about his position in the changing

[66] Trial of Muhammad Bahadur Shah, 139.
[67] Trial of Muhammad Bahadur Shah, 139.
[68] Trial of Muhammad Bahadur Shah, 139.
[69] An interesting question posed to Ahsan Ullah was "…It is evident that you were trusted in all matters of importance (by Bahadur Shah Zafar), and such as required writing and it is believed you know all about the matter that is now being alluded to?" While this was posed as a question, it appears to be a statement alluding to his position within the Mughal Empire and his knowledge of the emperor's rationales. This statement made during the trial is indicative of an imposition of authenticity on Ahsan Ullah's testimony. See, Trial of Muhammad Bahadur Shah, 140.

political landscape. He stated that: "I solemnly, and feeling myself on oath, declare that I have not concealed or misrepresented a single particular. I may have been confided in; I was still a servant to the emperor and many points of importance were not entrusted to me."[70] Ahsan Ullah's self-fashioning as a "servant" of the Mughal emperor was incumbent on the latter's sovereignty. However, by proving Bahadur Shah Zafar's treason and delegitimizing Mughal sovereignty, the trial negated the logic of his Mughal subjecthood. Additionally, by testifying during the trial, Ahsan Ullah was responding to the demands of the British court of law which was instituted in the name of the British Crown. The decision to include Ahsan Ullah's testimony as evidence for Bahadur Shah Zafar's treason during the trial altered the logic of the political network that sustained the sovereign-subject relationship in the India subcontinent. By enfolding this political network within the colonial episteme, the British Empire manipulated it to serve its own political purposes – to depose the Mughal emperor and justify the British claims of sovereign authority in India.

The testimony of Mukund Rai was a turning point in the trial. The questions posed to him were mainly aimed to determine Bahadur Shah Zafar's dissatisfaction with the British Government in India and how this dissatisfaction influenced his decision to support the Sepoy Mutiny. The testimony provided by Mukund Rai stood in stark contrast to others in its claim that the Mughal emperor was not only aware of the possibility of an uprising but also supported the Sepoy Mutiny.[71] Through the testimony, he articulates the Mughal emperor's discontent and belief that the "English had made him a prisoner."[72] Further, he stated that to oppose the British Government in India, Bahadur Shah Zafar had actively tried to intensify his influence over the sepoys and strengthen his relationship to the King of Persia.[73] Mukund

[70] Trial of Muhammad Bahadur Shah, 140.
[71] Trial of Muhammad Bahadur Shah, 149.
[72] Trial of Muhammad Bahadur Shah, 149.
[73] Bahadur Shah Zafar was increasing his influence over the sepoys was by making them his "disciples." By "becoming disciples" the sepoys had now recognized the emperor as their true "king." See, Trial of Muhammad

Rai's testimony became the cornerstone of the trial that legally proved the treason of the Mughal emperor against the British Empire.

The inclusion of Mukund Rai's testimony deeply influenced the nature and purpose of the emerging colonial episteme. At the basic level, Mukund Rai's testimony offered a scathing indictment of the treason of the Mughal emperor and the involvement of Bahadur Shah Zafar in the Sepoy Mutiny. At the epistemological level, the testimony justified the British court of law to depose the Bahadur Shah Zafar and claim control over the political network of sovereign-subject relationship in the Indian subcontinent. Mukund Rai's testimony was different not only in its content but also in how it was received within the British court of law. Almost no questions regarding the validity of his testimony were posed during the trial. It is beyond the scope of this archive to determine whether Mukund Rai was collaborating with or coerced by the British officials. However, his testimony actively served the purpose of the emerging colonial episteme by confirming Bahadur Shah Zafar's treason. Mukund Rai was also unique in his decision to actively distance himself from the Mughal emperor.[74] His recognition of the need to appease the British court of law shaped the colonial episteme that justified British claims over the political network of sovereign-subject relationship in the Indian subcontinent. Mukund Rai's testimony was a turning point in the trial in yet another way. By confirming the existence of communication between the Mughal emperor and the King of Persia, Mukund Rai validated the British Empire's anxiety about the possibility of an inter-imperial anti-British conspiracy within the Islamicate world.[75] Thus, his

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Bahadur Shah, *Selections from the records of the Government of the Punjab*, 149. Not only does this testimony reflect the influence of the Sufi saints in the political Islam of the Mughal Empire it also reflected the sovereign's authority to produce and sustain subjecthood within the Mughal Empire. For more information see, Alam, *The Languages of Political Islam,* 81.

[74] Unlike other Mughal courtiers providing testimonies during the trial, Mukund Rai was more intensely implicated in the charges of treason against Bahadur Shah Zafar's. This is because most of the "documentary evidence" presented during the trial were written and recorded by him, in his capacity as the emperor's secretary. For more information see, Trial of Muhammad Bahadur Shah, 149.

[75] Trial of Muhammad Bahadur Shah, 149.

testimony provoked and shaped the next phase of the trial that interrogated the sovereign diplomatic relationship between the Mughal and Persian Empires.

Treacherous "news" from the Islamicate world

The third type of evidence presented during the trial of Bahadur Shah Zafar was newspaper reports, specifically the news published in the newspaper titled "*Sadik-ul Akhbar"* or the "*Authentic News*." The *Authentic News* was one of the most popular Urdu weekly newspapers of Delhi in the 1850s. As a major conduit in the Mughal imperial information network, it regularly received news from the imperial court of Persia and published it in Delhi. It was also one of the most regularly read newspapers by Bahadur Shah Zafar.[76] By presenting extracts from the *Authentic News* during the trial, British officials tried to materialize a popular rumor of a trans-imperial conspiracy between the Mughal emperor and the King of Persia against the British Empire during the Sepoy Mutiny in India. The British anxiety about Persian involvement in the Sepoy Mutiny in India stemmed from the Anglo-Persian War over the region of Herat in the mid-nineteenth century.[77] The British anxiety about the possibility of a conspiracy in the Islamicate world (the political, religious, and cultural nexus created by the Mughal, Persian, and Ottoman Empire) to oust the British Empire from Asia played a crucial role in justifying the brutal suppression of the Sepoy

[76] Chunni Lal, a rival news writer in the Mughal court in Delhi, testified that Bahadur Shah Zafar regularly read and was influenced by the *Authentic News.* He also accused the *Authentic News* of being hostile towards the British government in India. See, Chunni Lal, Trial of Muhammad Bahadur Shah Zafar, 129.

[77] Standish sheds light on the Anglo-Persian war and the position of the British Empire in the tense and changing territorial disputes over the region of Herat. The British were mainly interested in securing its position by offsetting territorial losses to Russia by establishing its own diplomatic relations with the King of Persia and the chiefs of Afghanistan. For more information see, J F. Standish, "The Persian War of 1856-1857." *Middle Eastern Studies* 3, no. 1 (1966): 18–45. http://www.jstor.org/stable/4282185. Additionally, Alder notes the concerns of the British Empire regarding the Anglo-Persian war and the King of Persia's ambitions to expand his realm into the Indian subcontinent. For more information see, G. J. Alder, The Key to India? Britain and the Herat Problem, 1830-1863: Part II." *Middle Eastern Studies* 10, no. 3 (1974): 287–311. http://www.jstor.org/stable/4282538.

Mutiny and the imposition of Crown Rule in India.[78] By presenting extracts from the *Authentic News* as evidence, the British court of law aimed to solidify Bahadur Shah Zafar's treason by proving his involvement in an trans-imperial conspiracy during the Sepoy Mutiny. In doing so, it enfolded the larger diplomatic and information network into the colonial episteme through the trial. In turn, the colonial episteme justified the claims of the British Empire over the information and diplomatic networks and the sovereign prerogative it sustained – the authority to establish, maintain, and break inter-imperial diplomatic relations in the Indian subcontinent.

By presenting extracts from the *Authentic News* as evidence of the Mughal emperor's involvement in a treasonous trans-imperial conspiracy, the British court of law actively conflated networks of information and diplomatic relationships sustained by the Mughal Empire. The seventeenth century witnessed the emergence of two networks of information that converged on the Mughal court – one that produced the "news" or "*akhbarat*" of the Mughal court for the Empire, and the other which made available the "news" of distant regions to the Mughal court.[79] While these complex networks of "news" were initially instituted to serve the needs of the Mughal Empire, by the mid-nineteenth century, the Mughal court seemed to have lost control over these networks of intelligence. This is seen in

[78] The word "Islamicate" was coined by Marshall Hodgson in his book *The Venture of Islam.* He defined the term as relating not directly to the religion of Islam itself, but to the social and cultural complex historically associated with Islam and the Muslims, both among Muslims themselves and even when found among non-Muslims. His definition provides an insight into the wide variety of networks of people, information, and materials that constituted this Islamicate world. See Marshall G. S. Hodgson. *The Venture of Islam, Volume 1: The Classical Age of Islam* (University of Chicago Press, 1977) 59.

[79] Fisher shed light on three genres of writing the *akhbarat.* The most formal composition was produced by the office of the *akhbar nawis.* An office instituted during the reign of Akbar, the *akhbar nawais* faithfully recorded the formal acts of the ruler and the court in the imperial court diary. While this "news" maybe understood as the most "official" intelligence being produced by the Mughal court, it was definitely not the only type of intelligence being produced. The second type of "news" was produced by the reporters of the *wakils* (entrusted representatives of the Mughal Empire) or other wealthy patrons who attended the court and produced news which included assessment, advice, and counsel regarding the proceedings of the court. Finally, the Mughal court also received intelligence from its provinces and ambassadors from the *waqi 'a nawis* ("events" writer) who were stationed with important political and military officials. See Fisher, "The Office of *Akhbar Nawis,*" pp. 48-50.

the prominence of the *Authentic News* during the nineteenth century, which was able to receive news from Persia but was not published for or by the Mughal court and did not record official diplomatic correspondences between the two Empires. Nonetheless, it remained dependent on the larger networks of intelligence created by the Mughal Empire.

The EIC was aware of the existence of these information networks. In fact, they embedded their own intelligence officers, called "Residents," into these networks. These "Residents" were crucial to the functioning of the EIC and governance in India till the mid-nineteenth century.[80] British involvement in the pre-existing networks of information fundamentally changed them and gave rise to, what C. A. Bayly calls, "information order" - a type of social formation created by the coming together of colonial state surveillance and autonomous networks of communication.[81] The intelligence order was always characterized by the tensions between colonial state surveillance and autonomous local networks of communication.[82] The outbreak of the Sepoy Mutiny brought into sharp relief, the EIC's inability to entirely understand the structure, function, and purpose of these networks or the relationships it produced. These relationships produced by the information networks were not restricted to the regional or imperial level in the Indian subcontinent, but also produced and maintained inter-imperial relations, such as that between the Mughal and the Persian Empires. The failure to integrate into the information networks was at the core of the British Empire's anxiety about the Mughal-Persian conspiracy. This was reflected in the British concern about the proclamation from the King of Persia was posted on the wall of the Jama

[80] The EIC gradually developed a network of political "Residents": British officials of the Company who resided as political representatives at each of the important Indian courts. These political residents eventually began to exert control over the *akhbar nawis* and the information networks of Indian rulers. Thus, by the end of the nineteenth century, "Residents" came to monopolise official political communications among the Indian states. See, Fisher, "The Office of *Akhbar Nawis,*" 66.
[81] Bayly, *Empire and Intelligence*, 4.
[82] Bayly, *Empire and Intelligence*, 2.

Masjid in early March of 1857 that called to arms all Muslim men against the British forces.[83] Nonetheless, with the repression of the Sepoy Mutiny, the British Empire in India aimed at gaining control over these networks of information. By presenting the *Authentic News* as evidence during the trial, the British court of law enfolded these information networks into the colonial episteme. This emerging colonial episteme justified the British Empire's claim over these networks and its authority to restructure the relationships that it sustained.

The selection of extracts from the *Authentic News* presented as evidence during the trial was primarily about the proclamations by the King of Persia in support of the Sepoy Mutiny in India. In addition to being a newspaper regularly read by Bahadur Shah Zafar, the *Authentic News* was presented as evidence because of its markedly hostile tone towards the British Empire. The *Authentic News* regularly published articles about the global geopolitical landscape in the nineteenth century and emphasized the anti-British sentiments harbored by the King of France, Emperor of Turkey, and the Tsar of Russia.[84] This was a matter of concern to British officials because of the wide readership and influence enjoyed by the newspaper. With regards to the Sepoy Mutiny, the *Authentic News* was much more forceful in its demands to restore the sovereignty of the Mughal emperor with the support of the King of Persia. To do so, the *Authentic News* repeatedly invoked the long history of diplomatic, political, cultural, and religious relationships between the Mughal and the Persian Empires

[83] Sir Theophilus Metcalfe, agent of the EIC appointed to the Mughal court, anxiously described the King of Persia's proclamation (posed on the walls of the Jama Masjid) as follows: "It was a small dirty piece of paper, with a naked sword and shield depicted. One on the right and the other on the left of it, and the purport of it was that the King of Persia was about to visit this country, and he called upon all the faithful followers of the prophet Muhammed to join with him in extirpating the English infidels; and offering landed estates and other large words to all who would do so; it was further stated that there were 500 men in Delhi at the time of putting up the placard who were devoted to his interests." See, Trial of Muhammad Bahadur Shah, 121.

[84] Extracts from the "Authentic News" No. IV., Vol. III. Dated 26th January 1857, in Trial of Muhammad Bahadur Shah, *Selections from the records of the Government of the Punjab*, 189. Additionally, in an extract published on 26th January 1857, about the developments of the Anglo-Persian War the "Authentic News" printed: "The King of France and the Emperor of Turkey will not mix themselves in the quarrel between the Persians and the English, but most people say that they will both side with the Persians… As for the Russians, however, they make no secret the readiness with which they are assisting and will continue to assist the Persians." See, Extracts from the "Authentic News" No. IV., Vol. III. Dated 26th January 1857, in Trial of Muhammad Bahadur Shah, 189.

that sustained intricate that facilitated the movement of information, people, and material goods within the Islamicate world.[85] It was these complex and dynamic networks that the British court of law was interrogating through the trial and trying to claim control over by enfolding them into the colonial episteme. By enfolding them into the colonial episteme, the Bahadur Shah Zafar's treason justified the British Empire to claim control and curtail these historically enduring inter-imperial relations and restructure the geopolitical landscape of the nineteenth century.

The presentation of the extracts of the *Authentic News* during the trial exaggerated the solidarity between the Mughal and Persian Empires. Even though the *Authentic News* advocated for the restoration of Mughal sovereignty to its previous glory with the help of the King of Persia, it remained very skeptical of Persian intervention in the Sepoy Mutiny. It took particular offence to a claim made in the proclamation by the King of Persia that was posted on the walls of the Jama Masjid in Delhi: "That the time is at hand when, God willing, the King of Persia will sit on the throne in India and will make the king and people of that country contend and happy…" as well as "… promote the welfare of the Mussulmans."[86] It argued that the political and religious agenda that guided the King of Persia's declaration of war against the British in India would ultimately undermine the sovereignty of the Mughal emperor and be detrimental to his subjects who were predominantly Hindus.[87] In expressing its anxiety about the changing political landscape and the need to restore Mughal sovereignty, on 16th March the *Authentic News* published:

> … What cause for rejoicing would the Hindus have were the King of Persia to exercise sway over India? From the proclamation, it appears that he intends himself

[85] Azfar Moin sheds light on the long history of shared yet contested religious identities, political theologies, cultural symbols, patronage and kinship networks as well as respect for the ideas of universal kingship between the Mughal and Persian Empires. See, Moin, *The Millennial Sovereign*, 4.
[86] Extract from the "Authentic News," No. XI., Vol. II., dated 19th March 1857 in Trial of Muhammad Bahadur Shah, pp. 191-192.
[87] Extract from the "Authentic News," No. II., Vol. III., dated 16th March 1857, pp. 82 and 83 in Trial of Muhammad Bahadur Shah, 191.

> to occupy the throne of India. The Hindus would only then have cause to be pleased if the King of Persia, acting like Abbas Sha Safi, should enthrone, our own king; and where would be the wonder if he did so, for it was Taimur himself who bestowed sovereignty on the Persians, and it was reflecting on this that induced the said Abbas Shah to assist Humayun.[88]

The *Authentic News* published many similar statements advocating for the restoration of the sovereignty of the Mughal Empire. It firmly believed that only the restoration of Mughal sovereignty would check the offences of the British officials effectively while actively fostering harmony in the diverse region of India. By the restoration of Mughal sovereignty, the *Authentic News* also advocated for restoration of the position of the Mughal Empire within the Islamicate world. This involved demanding that the King of Persia recognize the sovereignty of the Mughal emperor and acknowledge the long history of shared ideas of universal kingship, religious identity, and political theology that sustained the intricate networks of diplomacy within the Islamicate world.[89] In publishing these statements, the *Authentic News's* primary objective was to create a favorable public opinion in Delhi regarding the need to strengthen the information and diplomatic networks between the Mughal and the Persian Empires to challenge the tyranny of the British Empire. It was precisely these information and diplomatic networks that the British Empire aimed to claim control over and disrupt by enfolding them into the colonial episteme.

With the onset of the Sepoy Mutiny and the disruption of the information order, the British actively tried to exert their control over these various networks of intelligence. In fact,

[88] Extract from the "Authentic News," No. II., Vol. III., dated 16th March 1857, pp. 82 and 83 in Trial of Muhammad Bahadur Shah, 191. This extract refers to the Humayun's, the second Mughal emperor, to the Safavid Empire of Iran. In 1540, Humayun was defeated and ousted from Delhi by his rival, Sher Shah Suri. During this period, Humayun sought refuge from the Safavid emperor who later helped him the Mughal emperor to regain his throne. This led to a long history diplomatic relationship between the two Empires. For more information see, Kinra, *Writing Self, Writing Empire*, 16. Additionally, Azfar Moin interrogates how Humayun's time in the Safavid court shaped Mughal sovereignty in the sixteenth century. For more information, see, Moin, *The Millennial Sovereign,* pp. 94-97.

[89] Extract from the "Authentic News," No. II., Vol. III., dated 16th March 1857, pp. 82 and 83 in Trial of Muhammad Bahadur Shah, 191.

in the issue published on 11th May 1857, the day after the Sepoy Mutiny began, the "Authentic News" published a statement:

> God forbid it, but should a battle occur in that direction (Herat), a great slaughter will be the consequence. Just for now the source of news from Persia is closed. Let not our readers imagine, as some ignorant people assert, that the British Government has prohibited the publication of intelligence. On the contrary, it is the wish of the Government that correct intelligence from distant parts of the world should be placed before the eyes of the public generally, and that the whole country may benefit by the newspapers, and this is the reason why the authorities themselves read the papers with a trust and confidence in their faithfulness, and expend their own private funds to encourage publishers and printers.[90]

While it does not make any overt mentions, this statement of the *Authentic News* seems to be a reaction to the British Government's decision to impose censorship on newspapers published in India. This censorship would later become the more formalized "Gagging Act" or "The Press Act" in 1857.[91] The decision to impose this censorship had a far-reaching impact. It was primarily aimed at curtailing the publication of any print media that questioned British governance in India. It also allowed the British Empire in India to claim control over the ability to establish, maintain, and curtail inter-imperial relations – a key prerogative of sovereign authority. By claiming this control, these networks of intelligence were enfolded into the colonial episteme and transformed based on the needs of the British Empire in India to legally depose the Mughal sovereign and justify British claims to sovereign authority in India.

[90] Extract from the Newspaper in the Urdu Tongue called the "Authentic News," No. XIX., Vol. III., dated 11th May 1857, in Trial of Muhammad Bahadur Shah, 196.

[91] The Press Act of 1857, derisively described as the "Gagging Act", imposed a strict censorship on all newspapers published in India. It suspended the publication of many Indian-run newspapers completely while exercising heavy government scrutiny on the few newspapers which survived. In so doing, the Press Act of 1857, effectively stifled ant critical voice towards the colonial government. For more information see, Niladri Chatterjee, "Nationalist Discourse in the Colonial World: The Indian Uprising of 1857 Vis-à-Vis the Ambivalent Middle-Class Intelligentsia of Bengal." *Forum for Development Studies* 51 (3): 439–62. doi:10.1080/08039410.2024.2336617; For more information about the role of the Press in the consolidation of the British Empire in India see Chandrika Kaul, *Reporting the Raj: The British Press and India c. 1880-1922.* (Manchester University Press; Palgrave, 2003) pp. 3-20.

The legal framework of the trial imposed an evidentiary value onto the newspaper – transforming it into proof of conspiracy and treason of the Mughal emperor. In this case, the treason of Bahadur Shah Zafar did not involve any particular act. Rather, his treason was the knowledge about the growing public demand for Mughal sovereignty and the possibility of a trans-imperial conspiracy against the British Empire. By imposing this censorship on the *Authentic News*, the British Empire actively curtailed the historical trans-imperial networks that sustained the Islamicate world and imposed a legal sanction on the networks of intelligence that sustained the Mughal Empire. By subsuming the hitherto Mughal imperial realm into the British Empire, the British Empire terminated the historic trans-imperial diplomatic relations that the Mughal Empire maintained. Thus, the legal sanctions imposed on these networks by the British Empire resulted in the restructuring of the historical geopolitical boundaries of the tumultuous global, trans-imperial, and international world order in the nineteenth century.

Conclusion

Judge Advocate Harriot concluded the trial of Bahadur Shah Zafar by presenting the finding to the British court of law: "The court, on the evidence before them, are of opinion that the prisoner Muhammad Bahadur Shah Zafar, Ex-King of Delhi, is guilty of all and every part of the charges preferred against him."[92] The findings of the trial were in no way unexpected. However, the trial of Bahadur Shah Zafar was not simply an illusory performance or an afterthought to the establishment of the British Empire in India. The trial fundamentally restructured the colonial episteme after it had been violently challenged by the Sepoy Mutiny. By invoking the discourse of the law, the trial shaped the colonial episteme, which

[92] F. J. Harriot, "Concluding Remarks," Trial of Muhammad Bahadur Shah, 245.

simultaneously constructed the treason of the Mughal emperor and justified the British Crown's claims of sovereign authority in the Indian subcontinent. In so doing, the trial and the colonial episteme that it produced shifted the locus of sovereign authority within the Indian subcontinent from the Mughal emperor to the British Crown.

In his concluding address during the trial, Harriot stated that, as the Mughal sovereign, Bahadur Shah Zafar stood at the center of an elaborate "mechanism" within which the Sepoy Mutiny erupted.[93] In doing so, he conceptualized Mughal sovereignty and treason as being constituted within elaborate imperial networks that sustained the Mughal Empire. The proceedings of the trial played a crucial role in enfolding these pre-existing imperial networks into the colonial episteme and manipulating them to serve the needs of the British Empire – to legally depose the treasonous Mughal emperor and justify British claims of sovereign authority in India. The inclusion of each type of evidence during the trial enfolded a particular imperial network into the colonial episteme. For instance, the documentary evidence presented during the trial enfolded the pre-existing imperial administrative and bureaucratic networks into the colonial episteme, which, in turn, justified British claims of control over administrative functions in the Indian subcontinent. The inclusion of testimonies of Mughal courtiers enfolded the political and legal networks into the colonial episteme, which, in turn, justified British claims over the sovereign prerogative to maintain sovereign-subject relations within the Indian subcontinent. Finally, the inclusion of newspaper reports enfolded the information and diplomatic networks into the colonial episteme, which, in turn, justified British claims over the sovereign prerogative of establishing inter-imperial diplomatic relationships. The trial of Bahadur Shah Zafar was a productive exercise of the law as it meticulously articulated the various aspects of sovereign authority in India, which was constituted within elaborate and intricate imperial networks. By legally proving the treason of

[93] F. J. Harriot, "Concluding Remarks," Trial of Muhammad Bahadur Shah, 214.

Bahadur Shah Zafar, the trial deposed and extricated the Mughal sovereign from these networks. This did not mean dismantling all previous meanings and structures. Rather, by enfolding them into the colonial episteme, the trial justified British claims of control over these imperial networks and sovereign authority in India.

The military victory of the British army over the Sepoy Mutiny had already established the political dominance of the British Empire in India. However, the trial of Bahadur Shah Zafar within the British court of law waged a much more pervasive epistemological war in the Indian subcontinent in the mid-nineteenth century. The restructuring of the colonial episteme through the trial and its imposition in the Indian subcontinent with the establishment of Crown Rule in 1858 changed the political landscape of the Indian subcontinent and placed the British Crown at the helm of affairs. The recognition of the political and legal purpose and outcomes of the trial of Bahadur Shah Zafar creates two distinct scopes of future research – first, interrogating how the trial of Bahadur Shah Zafar shaped policies of indirect rule in India during Crown Rule; and second, contextualizing the trial within the longstanding, dynamic, and fraught diplomatic relationship between the British and Mughal Empires.[94] Nonetheless, this paper has demonstrated the role of the trial of Bahadur Shah Zafar in restructuring the colonial episteme after the Sepoy Mutiny, which used the discourse of the law to construct Mughal treason and justify British claims to sovereign authority within the Indian subcontinent.

[94] The first scope of research would be in line with the pioneering work of Political Scientists such as Karuna Mantena and Mithi Mukherjee who have interrogated the development of government policies and colonial law in the British Empire in India. See Mantena, *Alibis of Empire,* 2010; and Mukherjee Mukherjee, *India in the Shadow of Empire,* 2010. The second scope of research would be in line with the seminal scholarly works of Mughal historians such as Muzaffar Alam and Sanjay Subramanyam. See, Alam, *The Languages of Political Islam,*2004; and Subramanyam, *Empires Between Islam and Christianity,* 2019.

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