



THE UNIVERSITY *of* EDINBURGH

## Edinburgh Research Explorer

### Justice, conscience and war in Imperial Britain

**Citation for published version:**

Kelly, T 2020, 'Justice, conscience and war in Imperial Britain', *PoLAR: Political and Legal Anthropology Review*, vol. 43, no. 2, pp. 319-333. <https://doi.org/10.1111/plar.12375>

**Digital Object Identifier (DOI):**

[10.1111/plar.12375](https://doi.org/10.1111/plar.12375)

**Link:**

[Link to publication record in Edinburgh Research Explorer](#)

**Document Version:**

Publisher's PDF, also known as Version of record

**Published In:**

PoLAR: Political and Legal Anthropology Review

**General rights**

Copyright for the publications made accessible via the Edinburgh Research Explorer is retained by the author(s) and / or other copyright owners and it is a condition of accessing these publications that users recognise and abide by the legal requirements associated with these rights.

**Take down policy**

The University of Edinburgh has made every reasonable effort to ensure that Edinburgh Research Explorer content complies with UK legislation. If you believe that the public display of this file breaches copyright please contact [openaccess@ed.ac.uk](mailto:openaccess@ed.ac.uk) providing details, and we will remove access to the work immediately and investigate your claim.



**Tobias Kelly**  
*University of Edinburgh*

## Justice, Conscience, and War in Imperial Britain

This article explores the political implications of opposition to war, focusing on the example of conscientious objection to military service. Conscientious objection is often treated as a fundamentally ethical issue; however, this article argues for centering questions of justice in analyses of responses to war. There is a risk that starting with ethics takes for granted the social significance of ethical responses and overlooks particular ethical practices in the reproduction of wider inequalities. More specifically, when an issue is narrowly framed in terms of ethics, it can have implications for who is allowed to speak and what they can speak about. Thinking about war as an issue of justice—in the sense of how society allocates the things that it values—allows the broader issues of hierarchy, distribution, and recognition to be in the foreground. The article focuses on the example of an Indian subject of the British Empire who applied for exemption from military service during the Second World War. The valorization on conscience by the British state prioritized a limited form of opposition to bloodshed grounded in personal moral scruples, to the exclusion of anti-imperial self-determination, and turned the war into an issue of individual ethics rather than global inequality. [justice, war, liberalism, Britain, empire, archives]

In the basement of the University of Aberdeen, on the edge of the North Sea in Scotland, lies a browning one-page form. It is dated May 22, 1941, and contains the typed lines: “Dear Sir, I am a Mohammedan, I cannot eat this army food ... I am ready to go away India. . . . I not believe kill person in any country.”<sup>1</sup> The document, an application for exemption from military service on the grounds of conscience, was written by a Punjabi Indian named Noor Mohamed, who at the time lived in the small Scottish seaside town of Macduff. In Second World War Britain, millions of men and women were conscripted to serve in the armed forces, but, if they showed a “genuine” conscientious objection, they could be granted an exemption. Mr. Mohamed’s application for such an exemption seems to have been only partly successful. In the bottom left-hand corner, written in pencil, are the lines: “non-combatant duties, preferably with an Indian regiment.” The words were probably scrawled by Sir William Hamilton Fyfe, the patrician vice chancellor of Aberdeen University, who served on the tribunals that examined conscientious objectors, and in whose papers the document can be found.

What might one make of this application for exemption to military service? Claims of conscience have played a privileged role in the modern history of opposition to war, providing a widely recognized form of dissent in many liberal democracies and beyond (Hayes 1949; Kelly 2015; Sandel 2009; Walzer 1970; Weiss 2014). In the face of violence, conscience is often seen as representing the last residue of humanity, speaking from beyond

*PoLAR: Political and Legal Anthropology Review*, Vol. 00, Number 0, pp. 1–15. ISSN 1081-6976, electronic ISSN 1555-2934. © 2020 The Authors. *PoLAR: Political and Legal Anthropology Review* published by Wiley Periodicals LLC on behalf of American Anthropological Association.

All rights reserved. DOI: 10.1111/plar.12375.

This is an open access article under the terms of the Creative Commons Attribution-Non Commercial-NoDerivs License, which permits use and distribution in any medium, provided the original work is properly cited, the use is non-commercial and no modifications or adaptations are made.

narrow interest or instrumental calculation (Evans 1997; Maclure and Taylor 2012; Nussbaum 2008; Shulman 2018). It is into this broad tradition that this article places Mr. Mohamed's application. Yet, the meanings and implications of the category of conscience are themselves far from self-evident. For many of its advocates, conscience is a universal attribute of all humans, serving as the sovereign grounds of both individual freedom and equality (see, e.g., Rawls 1993; Nussbaum 2008; Maclure and Taylor 2012). Critics have argued, though, that, far from being universal, freedom of conscience has its origins within a very narrow and specific Christian tradition (Laborde 2012), within which one might think it is hard to insert a figure such as Mr. Mohamed. At the same time, it is crucial to recognize that conscience has a broader history than Christianity (Shulman 2018; Weiss 2014); and even within the Christian tradition, it has been understood in a variety of ways, including as a feeling, a gift from God, a form of public reason, or an irrelevance (Andrew 2001; Baylor 1977). Equally important and contested is the association of conscience with pacifism, as those who embrace violence can also make claims in its name (Koonz 2003). It is therefore necessary to understand the shifting cultural and political work that specific claims of conscience carry out. How it is possible for someone like Mr. Mohamed to talk about conscience, and what can he say when doing so?

Conscience, as a response to violence and otherwise, is usually treated as a question of ethics, and more particularly as a type of ethical individualism or specific form of self-cultivation and virtue (Foucault 1983; Rose 1989; Shulman 2018; Walzer 1970; Weiss 2014). However, although ethics can take many forms, it is not the only way to respond to situations of violence. Ethical responses, in the broadest sense, can stand alongside and overlap with claims of technical expertise, necessity, reason, and passion, among other things (Brown 2015; Geuss 2003). Treating violence first and foremost as a question of ethics risks taking the social significance of particular ethical responses for granted. Whereas the anthropology of ethics has highlighted the ways in which specific issues, such as violence and bloodshed, become subject to ethical reflection (Das 2016; Keane 2016; Lambek 2015; Robbins 2004), it is important to pay attention to the processes through which particular types of ethical claims are given social significance in the first place. Furthermore, not all people have straightforward access to the conditions in which they can cultivate ethical selves; the ability to occupy a space of ethical virtue can be unequally distributed (Skeggs 2004). Framing conflicts in ethical terms can have implications for who is allowed to speak, in what ways, and about what issues (Brown 2015). To start with ethics can therefore be too narrow, in that ethics is a very particular response to a much broader set of issues around the distribution of violence.

This article examines opposition to war—and conscientious objection in particular—in terms of questions of justice. Doing so helps to foreground the wider processes of social reproduction within which particular forms of dissent, refusal, and judgment are located. Justice and ethics are closely entwined, and justice takes many forms, but justice can be thought of in terms of how society allocates the things that it prizes, whatever they might be (Sandel 2009, 18). While a vague sense of justice, or at least injustice, hovers behind much anthropological work, it is not widely used as an explicit analytical category, perhaps seeming too vague and too normative (cf. Brunnegger and Faulk 2016; Clarke and Goodale 2009). The important work that does exist has tended to focus on culturally thick senses of justice, treating justice as a largely ethnographic category (Greenhouse 1986; Merry 1990). Yet justice can too be a useful analytical concept. While the things that societies value can be contested, varied, and fragmented, to talk about justice takes the focus away from questions of ethical virtue and moves it to questions of inequalities in patterns of distribution and recognition (Honneth and Frazer 2003; Lyotard 1983; Rancière 2001):

distribution in the sense of the differential allocation of the ability to oppose war, and recognition in the sense of the ways in which particular claims are acknowledged.

Conscription and conscientious objection are issues of justice in that they provide very specific answers to the questions of how the sacrifices of war are shared and—more specifically—who is required to fight, who can refuse, and under what conditions. At another level, there is a tradition, found particularly in the United Kingdom and United States, of seeing the Second World War as a “just war,” a good and righteous battle for freedom against the forces of Fascism (Lowe 2015; Terkel 1984; Walzer 1977). During the war itself, for example, Winston Churchill addressed a joint session of the US Congress on December 26, 1941, declaring that “in the days to come the British and American peoples will ... walk together side by side in majesty, in *justice* and in peace” (emphasis added). But, crucially, if this was a war for justice, it is important to remember that it was also a war between empires, and its justice was therefore not always self-evident to those who were subjected to ongoing forms of British imperial domination; people precisely like Mr. Mohamed.

If the Second World War was a fight for justice, it was a very specific form of justice. As well as being imperial, the British state in the middle of the twentieth century was self-consciously liberal (Bell 2018; Thompson 1962: 42). While liberalism is a varied and sometimes contradictory tradition, it has been widely associated justice with freedom (Bell 2014; Rawls 1993; Sen 1999). To the extent that the Second World War was a just war for freedom, it was therefore fought in the name of a particular form of liberal freedom. Although freedom can take many shapes within the liberal tradition, a specific reading of conscience is often thought to be one of the central things that should be free (Foucault 1983, 212; Maclure and Taylor 2012; Nussbaum 2008; Rawls 1993, 154; Rose 1989, n22; Weiss 2014). The British Empire must then be thrown into this mix. The relationship between liberalism and empire is long and fraught, and nowhere more so than in India. Uday Mehta has gone so far as to argue that in India, British liberalism found the “concrete palace of its dreams,” where specific forms of freedom for some was built on the back of the lack of freedom for others (1999, 37). There is therefore a line—marked by the inequalities of the imperial encounter—that can be drawn between self-consciously liberal forms of justice, on the one hand, and distinct understandings of freedom and conscience, on the other hand. This is the line that runs through Mr. Mohamed’s form.

This article asks: What forms of justice, within and beyond the law, might be read from Mr. Mohamed’s document? Interpreting an archival fragment such as his application, as a document of justice or not, raises considerable challenges, as the page left behind is partial and seemingly arbitrary (Ginzburg 1989; LaCapra 1985; Rosaldo 1986). As Ann Stoler has suggested, rather than try to look through such archival fragments for what they might reveal about processes elsewhere, they can be examined at face value to explore the “conditions of possibility that shape what stories could be told and how” (2009, 334; see Farge 2015). Stoler argues that particular attention should be paid to the doubts and uncertainties found in such documents, for what they reveal about the contradictions in the process of rule and governance (2009, 4). A document signed by an Indian subject of the British Empire can therefore be examined for the brevity of its details, and the brevity itself is the starting place rather than an obstacle to overcome. The fact that a seemingly profound question of conscience, with implications for life and possible death, is dealt with in little under half a page needs to be taken seriously in its own right for what it reveals about the uncertainties and (in)justice of imperial rule.

Even if justice can never be reduced to legality, legal process can play an unequal role in determining the conditions under which claims of justice can be made, who can make them,

and in what way (Kelly 2012; Lyotard 1983). This article shows how, in mid-twentieth-century Britain, as elsewhere, legal judgements around freedom shaped the forms of justice that could be claimed in the face of violence. They did so by excluding claims around anti-imperial self-determination in favor of narrow and racially marked forms of liberty grounded in personal scruples, turning war into a question of individual ethics rather than global inequality. Although Mr. Mohamed may appear as a marginal figure, in an apparently marginal place, and his specific experience was relatively unusual, it is at the interstices of the state and empire that their tensions are laid most bare (Das and Poole 2004). In a small town on the northeast coast of Scotland, the forms of justice and injustice produced by a liberal empire at war begin to come into view.

The article is structured as follows. It starts by setting out what can be read from the face of Mr. Mohamed's application for conscientious objection, and then provides a short history of freedom of conscience and military service in Britain. I detail Mr. Mohamed's document in the context of the history of Indian subjects and British Imperial Armies and I then turn to the ways that particular forms of conscience were made legible and the form of inclusion and exclusion that this reproduced.

### **A Document of Conscience**

There are only the briefest glimpses of Mr. Mohamed from his application form. Alongside the three short sentences in which he explains his inability to eat army food, his refusal to kill, and his willingness to go to India, he states his age as thirty-seven and his address as Garden Street. In 1941, as today, Garden Street is made up of two-room row-houses, built out of gray stone a short walk from the North Sea. If one were to sail north out of the town, you would pass the windswept Orkney Islands, the next bit of land on the other side of the Arctic Circle. Mr. Mohamed's occupation is described as "salesman." The paper is also headed with the words "National Service (Armed Forces) Act 1939," and below this the applicant is invited to write any "statement you wish to make submit in support of your application." Mr. Mohamed only used three of the available seventeen lines.

There is more information scrawled in pencil at the bottom of the page, presumably by the judge. Here, Mr. Mohamed is described as a Punjabi speaker and seems to have appeared before the tribunal with the aid of an interpreter. The judge has also written "domiciled in the UK," and what appears to be the word "Irani," followed more clearly by "caste—vegetarian (like Brahmin)." There are also the lines: "eating meat against his religious conscience," and that Mr. Mohamed's "caste" are "agriculturalists" and "pacifist." One might guess that these details were gathered under cross-examination at the tribunal. There are also a few more pieces of information from a report in a local newspaper describing Mr. Mohamed as a "vendor of silk," and that his interpreter told the tribunal, "We come here as traders, and you are conscripting us to go and fight in a war that does not belong to us" (*Aberdeen Weekly* 1941). According to the same newspaper article, most of the other conscientious objectors who appeared before the tribunal that day were Scottish fishermen who belonged to various separatist Christian communities, such as the Open Brethren and the Closed Brethren.

Apart from these brief descriptions, there are no other obvious traces of Mr. Mohamed in the British archives, and it is not entirely clear what to make of the traces that exist. The published ethnographic record contains no mention of a Punjabi-speaking vegetarian caste called "Irani." The name Irani is usually associated with the Parsi community, so it is possible that Mr. Mohamed was a convert. It is also possible that Irani is a mistransliteration of "Araini." The Arain are a Muslim Punjabi caste, historically associated with farming, and who, according to a history of Asians in Scotland, made up the majority of Indian

immigrants to northern Britain in the first half of the twentieth century (Maan 1992, 108). The Arain were also classified by the British Empire as a “martial race” and often recruited into the British Indian Army. This means it was not a straightforward position from which to claim a conscientious objection to military service.

It is possible to guess what a Punjabi silk trader was doing on the northeast coast of Scotland in the 1940s, given the long established trade links between India and that particular part of the British Isles. During the first half of the twentieth century, the east coast of Scotland had over sixty jute mills for manufacturing sacks, with the raw material imported from India. There were also small communities of door-to-door Punjabi traders working across the country, some selling silk (Maan 1992).<sup>2</sup> Mr. Mohamed might have been one of these traders.

There is far more information on the judge in this case, and it is in his archived papers that Mr. Mohamed’s application is to be found. Sir William Hamilton Fyfe was born in London in 1878, and he attended the elite Fettes School in Edinburgh before graduating from Oxford with a double first in Classics (Levens 1964). In the First World War, Fyfe served as a major in military intelligence. Afterwards, he held several positions, including as principal of Queen’s College, in Ontario, Canada, despite reportedly having a low opinion of “colonial universities.”<sup>3</sup> He returned to Britain in the late 1930s, becoming the principal of Aberdeen University, the fifth-oldest university in the English-speaking world. Fyfe became a judge on the conscientious objector tribunals in 1939 and was knighted in 1942. Whichever way you look at it, Fyfe was a deeply establishment figure.

It is important to note that some of the current analytical uncertainties over how to interpret the document signed by Mr. Mohamed would probably also have occurred for people like Fyfe originally examining the application form. As representatives of the British legal system sought to address the questions of who should be required to fight in a war they considered self-consciously just, the documents and evidence before them would have been largely opaque, and any interpretations shot through with guesses and assumptions. The ostensibly liberal forms of justice found in documents such as Mr. Mohamed’s application are therefore marked by fissures and uncertainties. Importantly however, although this was a document marked by all the unknowns of imperial rule, these gaps were filled in within the context of the wider cultural histories of war, conscience, and the British encounter with India. This article now turns to the larger conditions of possibility under which claims of conscience were made and understood.

### **A Short History of Conscience and Conscription in Britain**

In contrast to other European countries, Britain introduced universal male conscription only in 1916, two years into the First World War. At the same time, a conscience clause was included, giving the right to exemption for those who could show they had a “genuine” conscientious objection to bearing arms. It was argued in Parliament that the clause was part of particular British traditions of liberty (Rae 1970, 33). But behind this statement lay an intensely political four-sided conflict among socialists in the Labour Party, who objected to forced labor and militarism; Liberals, who supported the war effort but objected to compulsion; trade unionists, who supported the war but worried about labor protections; and Conservatives, who thought everyone had an obligation to king and country (Kelly 2015). The conscience clause emerged, therefore, as a parliamentary compromise that turned conflicts over the conscription and the conditions of exemption from fighting into a question of recognizing individual ethical convictions. Importantly, no definition of “conscience” was included in the law, partly to win over support from atheist and socialist members of Parliament. Conscience was thus seen as a formally secular category and distinct from

religious forms of belief. As I show below, this is also a form of conscience that could be deeply unsettling, as it has no defined social or cultural content.

On the day the Second World War was declared in 1939, conscription was reintroduced and the conscience clause also retained. Article 1 of the National Service (Armed Forces) Act 1939 applied to British male subjects resident in Britain between eighteen and forty-one years of age. From 1941, unmarried women also became liable for conscription into various noncombatant roles. Applicants could be granted complete exemption, partial exemption on the grounds they carried out some other work of national importance, or be denied exemption altogether. Throughout the Second World War, the legal protection of conscientious objectors came to be seen as part of the moral distinction between British Liberal Democracy and Fascism. If the war was said to be just, it was partly because the Allies left space for freedom of conscience. Winston Churchill, for example, told Parliament that “the rights which have been granted in this war and the last to conscientious objectors are . . . a definite part of British policy. Anything in the nature of persecution, victimization, or man-hunting is odious to the British people.”<sup>4</sup> For people like Churchill, they might have strongly disagreed with the positions taken by conscientious objectors but they also saw the right to take such positions as a key part of British traditions of liberty and justice.

Between 1939 and 1945, over sixty-thousand people applied for exemption for military service on the grounds of conscience (Barker 1982; Kelly 2015). Of these applicants, close to 5 percent were given an unconditional exemption. Around 70 percent were given a conditional exemption, as in the case of Mr. Mohamed, and were directed toward agriculture or ambulance work, among other duties. A quarter of applications were completely dismissed, and these people either joined the armed forces, found some other way out of military service, or ended up in jail if they refused to comply with the tribunal’s decision.<sup>5</sup>

Military service has historically been tightly bound with access to the full rights of citizenship (Cohen 1985). In Britain, conscription and the conscience clause applied only on the mainland. Although Northern Ireland was constitutionally part of the United Kingdom, the province was not included within the remit of the National Service Act, presumably due to fears about the loyalties of Irish nationalists. This restriction was greatly resented by Northern Irish Unionists, who wanted to keep strong ties with Britain.<sup>6</sup> In the Dominions, the semi-independent white settler colonies, such as Canada and Australia, military service was shot through with racial distinctions. Only white men, for example, were enlisted into combat roles by the South African military. In Australia, the government initially decided against enlisting Indigenous Australians, seeing it as “neither necessary nor desirable,” before finally introducing universal male conscription in 1942 (Hall 1980, 74). Elsewhere, it was left to colonial governors as to whether to put in place measures for conscription. No governor appears to have done so for non-white subjects. Although levies were introduced in parts of British East Africa through processes of indirect rule, there is no record of a conscience clause in this situation (Killingray 2010). In India, the British introduced conscription and the right of conscientious objection, but only for members of “European races” (*The Times* 1940). Conscription and conscience were, therefore, largely obligations and rights reserved for the privileged class of white male British subjects.

Importantly, although the peoples of the British Empire were all subjects of the crown, the relationship between, nation, territory, rights and obligations was not neatly aligned. As Gary Wilder has argued elsewhere, it is important to pay attention to the often contradictory ways that “colonized peoples were members of imperial formations” through a “polity composed of multiple cultural formations, administrative regimes, and legal systems” (2015, 4–5; see also Mawani 2018). Within India, while there was no universal

conscription for Asian subjects of the empire, the same people could be conscripted if a resident on metropolitan British soil. In the First World War, the Army Council had issued an order that explicitly excluded people of “unmixed Asiatic descent” from conscription in Britain, but no such order was passed in the Second World War.<sup>7</sup> At the same time, the Empire was not something that simply happened outside the metropole but rather was reproduced on the metropolitan mainland, too. As people like Mr. Mohamed became liable for conscription, and as their applications for exemption on the grounds of conscience were examined, the hierarchies and inequalities of imperial citizenship were laid bare. In this context, the forms of justice made possible through conscientious objection—in terms of the distribution of the sacrifices of war and the ability to opt out—were not equally available to all subjects of the Empire.

### Indian Subjects in British Imperial Armies

How might the details of Mr. Mohamed’s application be interpreted? What, for example, are the implications of the claims about not being able to eat army food, of being a vegetarian “like Brahmin,” and his interpreter’s argument that he should not have to fight in a war that was not his?

Imperial subjects had long been recruited into the defense of the British Empire while being suspected for potential disloyalty or lack of discipline (Barkawi 2017). Indian subjects of the Empire, in particular, served in large numbers in the British military. By the end of the Second World War, for example, the British Indian Army had grown to more than 2.5 million men, perhaps the world’s largest volunteer army in history (Bayly and Harper 2004; Bose 2004; Khan 2015). However, from the start of British rule in India in 1857, Indian soldiers were also involved in one of the largest mutinies in British history, partly for concerns at being forced to eat prohibited food (Bates and Carter 2013). Following the rebellion, Indians were recruited into the British military according to distinct and essentialized categories of caste and ethnicity, reflecting wider structures of colonial rule (Dirks 2001). The soldiers of the British Indian Army were drawn predominantly from Northern India, especially from the Punjab and so-called martial groups, such as the Pathans, Sikhs, Gurkhas, and Arains (Barkawi 2017). In contrast, other groups, such as Brahmins, were often perceived as effeminate and nonmilitaristic. Another layer was later added to imperial perceptions of particularly Indian forms of opposition to violence by Gandhi’s campaign of *satyagraha* (truth) against British rule (Devji 2012). Gandhi was also very influential among British pacifists throughout the 1930s, and many British peace activists visited his Indian ashram and organized his visit to England in 1931 (Royden 1947). By the outbreak of the Second World War, Indian subjects were seen by the imperial state as both potentially useful foot soldiers and possibly disloyal and undisciplined—and in some cases, deeply adverse to violence.

In 1939 the British Cabinet in London declared that India was at war with the Axis powers without consulting with any elected Indian politicians. In the First World War, some Indian leaders, including Gandhi, were involved in the recruitment of volunteers into the British Army, hoping that military service would aid the cause of independence (Barkawi 2017). However, by 1939, with independence still not on the horizon, the Indian Congress Party refused to support the war effort, seeing it as hypocritical for the British Empire to ask Indians to fight for freedom while still subjecting the subcontinent to imperial domination. The war came at a considerable cost to the civilian population of India, as food supplies were distributed away from the rural population, resulting in the starvation of over two million people (Khan 2015; Sen 1981). In this context, Indian anti-imperialists were split, with some supporting the British—such as Muhammad Ali Jinnah, the leader of the

Muslim League—or at least remaining neutral, and others siding with the Axis powers. As the British were defeated by the Japanese across Southeast Asia, large numbers of Indian soldiers joined the Indian National Army, led by former Congress Party politician Subhas Chandra Bose, which was allied with the Japanese (Barkawi 2017; Bayly and Harper 2004; Singh 2014). Fighting for the British was thus a deeply ambiguous position for Indian subjects of the empire. If the Second World War was seen by the British as a just war for freedom, this was a freedom that did not include the promise of Indian self-determination. For many Indians, the justice of fighting for Britain was far from self-evident, as the war was being fought for a very narrow form of liberty.

### **Making Conscience Legible**

Mr. Mohamed's form was part of larger legal and administrative processes to decide who was and was not eligible for exemption from joining the British military. This was a process that made only very particular forms of conscience legible, bringing onto view a very narrow form of justice. Applicants first had to submit a short one-page document outlining the reasons for their objection. In the archives are dozens of applications from others, along with Mr. Mohamed's. The applications are diverse, but most are not more than a half a page, and Mr. Mohamed was not alone in using only a few lines. There are large numbers of forms from different Christian Brethren communities, a sizable number from Socialists, a scattering from Quakers, and many from people who are hard to classify. Robert Smith, for example, a member of the Closed Brethren, wrote: "I am a follower of the Lord Jesus Christ and desiring to walk according to the Christian Principles set down in Mathew 5." James Barclay, a window cleaner, wrote, "I have been a vegetarian for the past six years. I am opposed to vivisection and vaccination and the destruction and exploitation of man and beast." These objectors were predominantly from the middle class and skilled working class and hardly any were women. Fyfe scrawled over in the margins of most applications, usually further biographical details and an odd acerbic comment. James Barclay, for example, is described as a "half-wit."<sup>8</sup>

The tribunal, made up of three members, including Fyfe, considered the application form and other documents the applicant presented, and carried out a short cross-examination of usually no more than ten to fifteen minutes. Mr. Mohamed presented no other documents, but other applicants often submitted letters of support from acquaintances. These could be from church ministers, head teachers, or bank managers, among others, attesting to the sincerity and depth of the objector's convictions.<sup>9</sup> There is no formal record of the specific questions Mr. Mohamed was asked, but there is a record of other tribunal questions including: "What sacrifices have you made for your principles?"; "If you object to taking life, are you a vegetarian?"; and "What would you do if your wife or daughter was attacked?"<sup>10</sup>

In asking such questions, the members of the tribunal were trying to make an otherwise apparently hidden and private conscience visible. Historically, conscience has been thought to take many forms, but in twentieth-century Britain, in the long-term wake of the Protestant Reformation, it was widely associated with particular forms of individual and internal belief (Andrew 2001; Asad 2003). But as Hannah Arendt (1972) has written more broadly, where conscience is understood as an internal quality of specific individuals, it needs to be made public if it is to have political purchase. In the Second World War, Britain, as elsewhere, conscience was widely associated with words like "sincerity" (Weiss 2014).<sup>11</sup> As Webb Keane (1997) has argued, an emphasis on sincerity raises the specter of doubt and uncertainty, as outward manifestations of convictions are seen as representations of inner states, and there remains the potential for misrepresentation and misinterpretation. In the 1939 British parliamentary debates over the National Service Act, for example, there

were repeated claims that it was impossible for a tribunal to fairly and consistently judge claims of conscience. For example, T. Edmund Harvey, a Quaker and independent member of Parliament for a seat reserved for the “combined English Universities,” and who had helped draft the original conscience clause during the First World War, said: “There is no machinery which the House or any other House can set up for judging the conscience of men that would be satisfactory.”<sup>12</sup> Conscience, for people like Harvey, was inscrutable and added another layer to the uncertainties of imperial rule.

If conscience was inscrutable, it was also, importantly, not formally defined by the law. This meant that it was up to the discretion of the tribunals to decide what conscience looked like in practice. Gaps in knowledge could be filled by wider cultural conventions about what a sincere and genuine conscience should look like. Judges such as Fyfe routinely saw religious affiliation as the most reliable indicator of a sincere conscience (Barker 1982, 17). More specifically, form of conviction associated with groups such as Quakers and Methodists were often most persuasive. In Fyfe’s papers, for example, there is an application from Fenton Wyness, a pottery molder, who writes: “I am a member of the Society of Friends (Quakers) whose beliefs need not be set out here.”<sup>13</sup> Quakers were widely seen as pacifists by the British public, and were usually keen to show their loyalty to other British citizens and be of “service” by carrying out humanitarian work. Wyness was given an unconditional exemption, a status achieved by less than one in twenty applicants. In marked contrast, Jehovah’s Witnesses, who sought to cut themselves off from ungodly obligations, were routinely rejected by the tribunal.<sup>14</sup> Conscience was most easily recognized at the tribunal when it resonated with a history of tempered Protestantism, or what Max Weber described as a “quiet, moderate, eminently conscientious character of conduct” ([1930] 2005, 97). In this process, a nominally secular form of commitment was collapsed back into convictions analogous to specific forms of religious belief (Asad 2003; Laborde 2012). By doing so, freedom of conscience was placed within strict limits.

Those applicants deemed to be “political” could have a hard time before the tribunal. One observer, for example, wrote that “the tribunal will not accept political objectors . . . and the only objectors who will be recognized are those who base their objections on religious grounds.”<sup>15</sup> In this context, anarchist and socialist antimilitarists were routinely rejected. Anti-imperialist objectors also had particular difficulties. Suresh Vaidya, for example, a thirty-three-year-old Indian journalist who worked for *Time* magazine in London, briefly became a minor cause célèbre. In 1944, Mr. Vaidya was sentenced to ninety-three days in prison for refusing to serve in the British Army. On his appeal, he argued that he was opposed to Fascism and Nazism, but was not prepared to fight in an imperial army, telling the tribunal: “I don’t think there is anything immoral or unjust in wanting to be free” (*Derby Evening Telegraph* 1944; *Evening Telegraph and Post* 1944).

Scottish and Welsh nationalists also argued that they should be exempt from fighting for the British Army on the grounds of conscience. The Scottish National Party, for example, split over whether to support conscription. Douglas Young, an academic and wartime leader of the party, refused to register as a conscientious objector, arguing that the British state had no right to order conscription or to judge his conscience. Young wrote that conscription was part of an “Imperial Policy” that “trespassed” on Scottish traditions of natural liberty. The magistrate hearing his appeal reportedly said that the “arguments are too lofty for this Court. If not for a psychiatrist” (Young 1944, 3). Young was eventually sent to prison. The chair of the English appeals tribunal, the historian and Liberal Party politician H. A. L. Fisher, later wrote that the “intention of the statute was not to protect every form of conscientious pacifism; it was not intended to protect the Fascist who has an objection to fighting for the Government; it was not intended to protect the Welsh or Scottish

Nationalist, who maybe has a conscientious objection to fighting for Britain” (quoted in Hayes 1949, 60).

Whether Scottish, Welsh, or Indian, anti-imperialist objections to joining the British military all had to be presented as a form of tender, and individual scruples counted as a legitimate form of conscientious opposition to war. However, the forms of “genuine” conscience available to Mr. Mohamed were marked by the history of the British state and its Empire. White British citizens were most likely to be accepted if they showed a form of “tempered” loyal conscience, often associated with Quakerism (Kelly 2015). When Derrick Ridgeway, for example, a working-class man from Liverpool, told the tribunal that he was interested in Indian mysticism and yoga, his case was dismissed, with the judge telling him that he was a “bad mannered man.”<sup>16</sup> In contrast, for Indian subjects of the Empire, references to caste and vegetarianism indexed wider tropes of Indian pacifism and religiosity. Mr. Mohamed’s application therefore had to persuade the tribunal of the sincerity of his conscience by meeting conventions about what conscience looked like. In doing so, his application gestured to wider racialized histories of both imperial rule and British liberalism that shaped the forms of justice that could be claimed and recognized for those not wanting to fight.

The linking of caste, vegetarianism, and antiwar attitudes worked on two fronts. On one, it played to visions of the authentic Indian religious subject, rooted in caste, where Brahmins were seen as archetypal pacifists. A careful line had to be trod here though, as Punjabi Muslims could also be seen as inherently “martial,” and the British Army was already racialized; hence, Sir William Fyfe’s reference to Mr. Mohamed serving in an “Indian unit.” The confusion over Mr. Mohamed’s exact origins can be seen as forming in this very space where race and militarism were seen as deeply linked. On the second front, the references to pacifism, “religious beliefs,” and vegetarianism gestured back toward British ideas of religious sentiment and antiwar attitudes, where Quakers were seen as archetypal conscientious objectors.

To be persuasive before the tribunal, an objection to fighting from an Indian subject of the British Empire had to be presented in a way that foregrounded forms of imagined difference but through familiar categories. In a pattern reproduced in the wider colonial encounter, Indian convictions around military service had to be analogous with but distinct from protestant forms of belief (Dirks 2001; Povinelli 2002). As Erica Weiss has written, claims of conscience are most likely to be recognized when they do not challenge prevailing state orthodoxies, and can therefore serve to reduce the space for engaging “politically on questions of military service and violence” (2012, 82; 2014). Although very few clues exist about how Mr. Mohamed felt about the ructions of imperial politics, beyond his interpreter’s statement that the war “does not belong to us,” it is relatively safe to think that any argument that implied anti-imperialism would have got him less far before than tribunal than references to caste and food.

## Conclusion

If the Second World War was a just war for freedom, the question must be asked: Which forms of justice, which forms of freedom, and for whom?

Conscience is often valorized as a specifically *individual* and *ethical* response to war. But an emphasis on ethics, both analytically and empirically, risks eliding questions of justice. Conscience, understood as personal scruples, is not an inevitable way of determining who should and should not fight in war, but a historically contingent response that excludes other forms of refusal, and is embedded in histories of political inequality. Mr. Mohamed’s

short document brings into view some of the tensions in the forms of justice produced by a self-consciously liberal and imperial British state, with all its hierarchies and uncertainties.

In Britain in the Second World War, in order to be treated as a subject with rights and entitlements, those who refused to fight had to behave like conscientious and loyal subjects of the empire. Talal Asad (1992) has argued that colonialism turned the peoples of the world into “conscripts,” in that they become forced to “respond to particular categories, new choices are constructed and new questions are asked” (see also Bell 2014; Scott 2004). As such, and somewhat ironically perhaps, even as they claimed a conscientious objection to military service, the subjects of the British Empire became “conscripts” of narrowly liberal forms of authorized dissent. The important point here is not so much whether anti-imperialism was or was not a form of conscience but rather that conscience was the ground on which the refusal to fight—anti-imperial or not—was officially recognized. To be accepted as a legitimate and persuasive basis on which to oppose conscription, objection to war had to be turned into an issue of individual scruples. A narrow form of ethical reflection, dominated by specific types of loyal white men, became the privileged site through which questions of justice were addressed.

Framing the question of who should fight in terms of individual scruples serves to put aside wider questions of justice, such as the distribution and recognition of wider forms of violence, in favor of a debate about the relativity of sincere beliefs. In the history of opposition to war, since the early twentieth century at least, claims of conscience has held a particularly significant space, and the right to conscientious objection is now widely recognized by many states, liberal and otherwise (Evans 1997). But valorizing conscience seeks to answer political questions—and what can be more political than war—by referring to internal personal conflicts. Debates about the distribution of rights and obligations are mediated through references to the interior state of individuals (Brown 2015; khanna 2016; Muehlebach 2012). To put this another way, questions about the distribution of who should kill and die for king, country, and empire are turned into questions of the presence of sincere internal convictions rather than questions of collective solidarity, distribution, and national self-determination.

### Notes

The research upon which this article is based was made possible by an ERC Horizon 2020 Consolidator Grant (648477 AnCon ERC-2014-CoG). I would like to thank Harini Amarasuriya, Sidharthan Maunaguru, Galina Oustinova-Stjepanovic, and Jonathan Spencer for their many insights. I would also like to thank audiences in Utrecht and Edinburgh as well as Lotte Hoek and Sandra Brunnegger for their useful comments on earlier versions.

1. Fyfe Papers, World War Two North Eastern Scotland Local Tribunal for Conscientious Objectors, MS 2108, Special Collections, University of Aberdeen.
2. I am grateful to Crispin Bates and Roger Jeffery for this information.
3. *Queen's Encyclopedia Online*, s.v. “Fyfe, Sir William Hamilton (1878–1965),” <https://www.queensu.ca/encyclopedia/f/fyfe-sir-william-hamilton>.
4. See “A Plea for Tolerance,” Central Board of Conscientious Objectors (CBCO), Butler Papers, Bishopsgate, <https://www.bishopsgate.org.uk/archives>.
5. “Jobs of Cos,” April 3, 1940, TC6 Box 1; and “Report on Cos,” July 1940, TC6 Box 1., Both in Mass Observation Archives (MOA), University of Sussex.
6. See comments of Lieutenant-Colonel Sir William Allen, House of Commons Debate, December 11 1941, Hansard, UK Parliament.

7. House of Commons Debate, December 11 1941, Hansard.
8. Fyfe Papers, MS 2108.
9. Fyfe Papers, MS 2108.
10. "The Workings of the Tribunal," MOA1/2/6/1/B, MOA.
11. See also "Memorandum to CBCO meeting," June 5, 1940, Friends House, CBCO, London.
12. House of Commons Debate, May 8, 1939, Hansard.
13. Fyfe Papers, MS 2108.
14. Bulletin of the Central Board for Conscientious Objectors April 1942, no. 26 (author's copy).
15. "Memorandum. Political Objectors," no date, Tribunal Box 6, CBCO.
16. Roy Ridgway, Diary, 26 February 1940, Imperial War Museum Archives, London.

### References Cited

- Aberdeen Weekly*. 1941. "Mohammedan CO at Tribunal", June 19.
- Andrew, Edward. 2001. *Conscience and Its Critics: Protestant Conscience, Enlightenment Reason and Modern Subjectivity*. Toronto: University of Toronto Press.
- Arendt, Hannah. 1972. *Crisis in the Republic*. New York: Harcourt.
- Asad, Talal. 1992. "Conscripts of Western Civilization?" In *Dialectical Anthropology: Essays in Honor of Stanley Diamond*, vol. 1, edited by C. Gailey, 333–51. Gainesville: University Presses of Florida.
- . 2003. *Formations of the Secular: Christianity, Islam, Modernity*. Palo Alto, CA: Stanford University Press.
- Barkawi, Tarek. 2017. *Soldiers of Empire: Indian and British Armies in World War II*. Cambridge: Cambridge University Press.
- Barker, Rachel. 1982. *Conscience, Government and War: Conscientious Objection in Britain, 1939–1945*. London: Routledge.
- Bates, Crispin and Marina Carter, eds. 2013. *Mutiny at the Margins: New Perspectives on the Indian Uprising of 1857; Volume III: Global Perspectives*. New Delhi: Sage.
- Baylor, George. 1977. *Action and Person: Conscience in Late Scholasticism and the Young Luther*. Leiden: E.J. Brill.
- Bayly, Christopher, and Tim Harper. 2004. *Forgotten Armies: Britain's Asian Empire and the War with Japan*. Harmondsworth, UK: Penguin.
- Bell, Duncan. 2014. "What Is Liberalism?" *Political Theory* 42 (6): 682–715.
- . 2018. *Reordering the World. Essays on Liberalism and Empire*. Princeton, NJ: Princeton University Press.
- Bose, Sarmila. 2005. "Love in the Time of War: Subhas Chandra Bose's Journeys to Nazi Germany (1941) and towards the Soviet Union (1945)." *Economic and Political Weekly* 40(3): 249–56.
- Brown, Wendy. 2015. *Undoing the Demos: Neoliberalism's Stealth Revolution*. New York: Zone.
- Brunnegger, Sandra, and Karen Ann Faulk, eds. 2016. *A Sense of Justice: Legal Knowledge and Lived Experience in Latin America*. Palo Alto, CA: Stanford University Press.
- Clarke, Kamari Maxine, and Mark Goodale, eds. 2009. *Mirrors of Justice: Law and Power in the Post-Cold War Era*. Cambridge: Cambridge University Press.

- Cohen, Eliot. 1985. *Citizenship and Soldiers: The Dilemmas of Military Service*. Cambridge: Cambridge University Press.
- Das, Veena. 2016. "What Does Ordinary Ethics Look Like?" In *Four Lectures on Ethics: Anthropological Perspectives*, edited by Michael Lambek, Veena Das, Didier Fassin and Webb Keane, 55–137. Chicago: Hau Books.
- , and Deborah Poole. 2005. *Anthropology and the Margins of the State*. Santa Fe: School of American Research Press.
- Derby Evening Telegraph*. 1944. "Appeal to C.O. Tribunal by Sentences Indian", May 1.
- Devji, Faisal. 2012. *The Impossible Indian: Gandhi and the Temptation of Violence*. Cambridge, MA: Harvard University Press.
- Dirks, Nicholas. 2001. *Castes of Mind: Colonialism and the Making of Modern India*. Princeton, NJ: Princeton University Press.
- Evans, Malcolm. 1997. *Religious Liberty and International Law in Europe*. Cambridge: Cambridge University Press.
- Evening Telegraph and Post*. 1944. "Vaidya is Registered as a CO," May 12.
- Farge, Arlette. 2015. *The Allure of the Archives*. New Haven, CT: Yale University Press.
- Foucault, Michel. 1983. "Afterword: The Subject in Power." In *Michel Foucault: Beyond Structuralism and Hermeneutics*, edited by Hubert L. Dreyfus and Paul Rabinow. Chicago: University of Chicago Press.
- Geuss, Raymond. 2005. *Outside Ethics*. Princeton, NJ: Princeton University Press.
- Ginzburg, Carlo. 1989. *Clues, Myths and the Historical Method*, translated by J. Tedeschi and A. Tedeschi. Baltimore, MD: Johns Hopkins University Press.
- Greenhouse, Carol. 1986. *Praying for Justice: Faith, Order, and Community in an American Town*. Ithaca, NY: Cornell University Press.
- Hall, Robert. 1980. "Aborigines, the Army and the Second world War in Northern Australia." *Aboriginal History* 4(1/2): 72–95.
- Hayes, Denis. 1949. *Challenge of Conscience: The Story of the Conscientious Objectors, 1939–1949*. London: Allen and Unwin.
- Honneth, Axel, and Nancy Frazer. 2003. *Recognition or Redistribution: A Political Philosophical Exchange*. London: Routledge.
- Keane, Webb. 1997. *Sings of Recognition: Powers and Hazards of Representation in an Indonesian Society*. Berkeley: University of California Press.
- . 2016. *Ethical Life: Its Natural and Social Histories*. Princeton, NJ: Princeton University Press.
- Kelly, Tobias. 2012. *This Side of Silence: Human Rights, Torture, and the Recognition of Cruelty*. Philadelphia: University of Pennsylvania Press.
- . 2015. "Citizenship, Cowardice, and Freedom of Conscience: British Pacifists in the Second World War." *Comparative Studies in Society and History* 57 (3): 694–722.
- Khan, Yasmin. 2015. *The Raj at War: A People's History of India's Second World War*. Harmondsworth, UK: Penguin.
- khanna, akshay. 2016. *Sexualness. New Delhi: New Text*.
- Killingray, David. 2010. *Fighting for Britain: African Soldiers in the Second World War*. Woodbridge, UK: James Currey.
- Koonz, Claudia. 2002. *The Nazi Conscience*. Cambridge, MA: Harvard University Press.
- Laborde, Cécile. 2012. "Protecting Freedom of Religion in the Secular Age." Immanent Frame (blog). <https://tif.ssr.org/2012/04/23/protecting-freedom-of-religion-in-the-secular-age/>.

- LaCapra, Dominick. 1985. "The Cheese and the Worms: The Cosmos of a Twentieth Century Historian." In *History and Criticism*, edited by Dominick LaCapra, 45–69. Ithaca, NY: Cornell University Press.
- Lambek, Michael. 2015. *The Ethical Condition: Essays on Action, Person and Value*. New York: Fordham University Press.
- Levens, R. G. C., ed. 1964. *Merton College Register 1900–1964*. Oxford: Basil Blackwell.
- Lowe, Lisa. 2015. *The Intimacies of Four Continents*. Durham, NC: Duke University Press.
- Liotard, Jean-Francois. 1983. *The Differend: Phrases in Dispute*. Minneapolis: University of Minnesota Press.
- Maan, Bashir. 1992. *The New Scots: The Story of Asians in Scotland*. Edinburgh: John Donald Publishers.
- Maclure, Jocelyn, and Charles Taylor. 2012. *Secularism and Freedom of Conscience*. Cambridge, MA: Harvard University Press.
- Mawani, Renisa. 2018. *Across Oceans of Law: The Komagata Maru and Jurisdiction in the Time of Empire*. Durham, NC: Duke University Press.
- Mehta, Uday. 1999. *Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought*. Chicago: University of Chicago Press.
- Merry, Sally Engle. 1990. *Getting Justice and Getting Even: Legal Consciousness Among Working Class Americans*. Chicago: University of Chicago Press.
- Muehlebach, Andrea. 2012. *The Moral Neoliberal: Welfare and Citizenship in Italy*. Chicago: Chicago University Press.
- Nussbaum, Martha. 2008. *Liberty of Conscience: In Defense of America's Tradition of Religious Equality*. New York: Basic Books.
- Rae, John. 1970. *Conscience and Politics*. Oxford: Oxford University Press.
- Rancière, Jacques. 2001. "Ten Thesis on Politics." *Theory and Event* 5 (3)
- Rawls, John. 1993. *Political Liberalism*. New York: Columbia University Press.
- Robbins, Joel. 2013. "Beyond the Suffering Subject: Toward an Anthropology of the Good," *Journal of the Royal Anthropological Institute* 19: 447–62.
- Royden, Maude. 1947. *A Threefold Cord*. London: Victor Gollancz.
- Povinelli, Elizabeth. 2002. *The Cunning of Recognition: Indigenous Alterities and the Making of Australian Multiculturalism*. Durham, NC: Duke University Press.
- Rosaldo, Renato. 1986. "From the Door of his Tent: The Fieldworker and the Inquisitor." In *Writing Culture: The Poetics and Politics of Ethnography*, edited by James Clifford and George E. Marcus, 77–97. Berkeley: University of California Press.
- Rose, Nikolas. 1989. *Powers of Freedom: Reframing Political Thought*. Cambridge: Cambridge University Press.
- Sandel, Michael. 2009. *Justice: What Is the Right Thing to Do?* Harmondsworth, UK: Penguin.
- Scott, David. 2004. *Conscripts of Modernity: The Tragedy of Colonial Enlightenment*. Durham, NC: Duke.
- Sen, Amartya. 1999. *The Idea of Justice*. London: Allen Lane.
- . 1981. *Poverty and Famines: An Essay on Entitlement and Deprivation*. Oxford: Oxford University Press.
- Shulman, David. 2018. *Freedom and Despair: Notes from the South Hebron Hills*. Chicago: University of Chicago Press.
- Singh, Gajendra. 2014. *The Testimonies of Indian Soldiers and the Two World Wars: Between Self and Sepoy*. New York: Bloomsbury Academic.

- Skeggs, Bev. 2004. *Class, Self, Culture*. London: Routledge.
- Stoler, Ann. 2009. *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense*. Durham, NC: Duke University Press.
- Terkel, Studs. 1984. *The Good War: An Oral History of the Second World War*. New York: Pantheon.
- Thompson, E. P. 1962. "The Free-Born Englishman." *New Left Review* 1 (15): 43–47.
- The Times. 1940. "Compulsory Service for Europeans in India," June 27.
- Walzer, Michael. 1970. *Obligations: Essays on Disobedience: War and Citizenship*. Cambridge, MA: Harvard University Press.
- . 1977. *Just and Unjust Wars*. New York: Basic Books.
- Weber, Max. [1930]2005. *The Protestant Ethic and the Spirit of Capitalism*. London: Routledge.
- Weiss, Erica. 2012. "Principle or Pathology? Adjudicating the Right to Conscience in the Israeli Military." *American Anthropologist* 114 (1): 81–94.
- . 2014. *Conscientious Objectors in Israel: Citizenship, Sacrifice and Trials of Fealty*. Philadelphia: Pennsylvania University Press.
- Wilder, Gary. 2015. *Freedom Time: Negritude, Decolonialization and the Future of the World*. Durham, NC: Duke University Press.
- Young, Douglas. 1944. *An Appeal to Scots Honour: A Vindication of the Right of the Scottish People to Freedom from Industrial Conscription and Bureaucratic Despotism Under the Treaty of Union with England*. Glasgow: Scottish Secretariat Limited.