**The Irrevocable Tension Between Sovereign and Biopower: Torture as a Technology of Rule in Colonial India**

Michel Foucault has explored the ways in which, beginning in the eighteenth century, punishment started to become “’the most hidden part of the penal process’” and justice ceased to take “’public responsibility for the violence that is bound up with its practice”.[[1]](#footnote-1) For Foucault this signalled the emergence of biopower – or the power over life, in contrast to the sovereign power over death – in the operation of penal practices, and with it a shift away from corporal punishment to incarceral disciplining. Although Foucault locates the emergence of such a penological model in Europe, scholars of colonialism have argued that it was part of a larger disciplinary and regulatory regime that emerged through interconnections between Europe and its colonies.[[2]](#footnote-2) In the case of colonial India, as in other colonial contexts, biopolitical technologies facilitated the gradual demise of public execution in the early nineteenth century and the replacement of forms of punishment such as torture and mutilation with labour. But the rationale for such transformations in penal practices, while in part driven by the urge to manage the Indian population, was also fostered by concerns about the need to ameliorate Indian “habits” and “prejudices” and allay anxieties regarding colonial governance.[[3]](#footnote-3)

Yet in spite of such concerns, torture *did not* disappear as a mode of punishment in colonial India. True, torture ceased to be a form of *legal* punishment, but it continued to be routinely employed as a form of extra-legal punishment by the police and other officials (or affiliates) beyond the early nineteenth century (indeed, as I have argued elsewhere, it only became consolidated as a technology of colonial rule in the late nineteenth century).[[4]](#footnote-4) While Foucault argued that the emergence of modern forms of power such as discipline led to “the disappearance of torture as a public spectacle”, this was not true in the case of colonial India, where torture by state agents was frequently carried out in public (at times even in front of a whole village).[[5]](#footnote-5) Even when not carried out as such an overt form of spectacle, the public was often made aware that torture was taking place through the appropriation of private space (such as the house or courtyard of a prominent villager, or purported victim of crime) and the audibility of the sufferings of the torture victims (villagers often reported hearing but not seeing torture take place). In the case of colonial India, therefore, “The body as a major target of penal repression” did not, as Foucault asserts, disappear.[[6]](#footnote-6) The public and embodied nature of such violence meant that the colonial regime was hence compelled, if not exactly to acknowledge responsibility for it, to at least be held accountable.

This chapter will analyse a seeming paradox, namely how the colonial regime in India sought to stamp out the use of torture by state agents while in effect inscribing it as a key technology of colonial rule. Understanding such a paradox requires going beyond analyses of colonial power in which different forms of power are analysed in isolation to explore the tensions between sovereign and biopolitical power in the operation of state power. I aim to demonstrate that sovereign power in colonial India was more restrained than biopolitical power, since while the former sought to limit its right to kill (bearing in mind those Indian “habits” and “prejudices) the latter is infused with a form of racism that in seeking to strengthen or ‘protect’ the bodies of particular peoples or groups – if need be at the expense of other peoples or groups – enables death to enter the apparatus of biopolitics (what Achille Mbembe terms “necropolitics”).[[7]](#footnote-7) I will elucidate, furthermore, the ways in which welfare functions as “the governmentality of the violence of sovereignty”.[[8]](#footnote-8) Finally, I will analyse how, while a “perverse homogeneity” may have existed in the operation of sovereign and biopower when it came to torture, as the Torture Commission set up in Madras in 1854 reveals, the heterogeneity of, and tensions between, these forms of power began to become apparent in colonial India by the mid-nineteenth century.[[9]](#footnote-9)

**Governmentality, Biopower and Sovereignty**

The last two decades have seen the emergence of a rich field of scholarship on colonial governmentalities. Heeding David Scott’s call, in his seminal article on colonial governmentality, to explore “the different political rationalities, different configurations of power, [which] took the stage in commanding positions” within “the structures and projects that gave shape to the colonial enterprise as a whole”, scholars of colonialism have examined the emergence and consolidation of governmental power in colonial contexts through a range of projects of modernization undertaken by colonial regimes, as well as the appropriation of such a technology of rule by nationalist movements in an effort to both challenge and appropriate the project of colonial modernity and enable colonized subjects to govern themselves.[[10]](#footnote-10) They have also demonstrated the incongruities – if, while not wishing to posit a normative governmentality, we can use such a term – in the ways in which governmental power operated in colonial contexts or of how, rather than being “the tropicalizaiton of its Western form”, colonial governmentality was, instead, fundamentally dislocated.[[11]](#footnote-11)

As I have argued elsewhere, colonial regimes were, to begin with, more concerned with maintaining colonial structures of power than in regulating the bodies of their subjects in order to maintain a healthy and productive population.[[12]](#footnote-12) Since, moreover, such regimes were both despotic and operated through enshrining what Partha Chatterjee has termed a “rule of colonial difference”, which served to reproduce difference between the colonizers and the colonized, they were incapable of “fulfilling the criterion of representativeness . . . that makes modern power a matter of interiorized self-discipline, rather than external coercion.”[[13]](#footnote-13) Such a lack of representativeness hindered, moreover, the generation of a confluence of interests between the governance of others and of the self.[[14]](#footnote-14) These incongruities led to tremendous tensions in the operation of colonial governmentalities, since while the colonized were viewed as being incapable of self-governance, modern technologies were credited with being able to make them self-governing against their will.[[15]](#footnote-15) Such incongruities also meant that colonial governmentalities tended to emerge contrary to, rather than as a product of, the desires of colonial regimes, and were often more performative than transformative in terms of both their intent and effects.[[16]](#footnote-16)

But what perhaps distinguishes colonial governmentality most significantly is its intimacy with violence, particularly with the violence of sovereign power. The fragmented nature of colonial states meant that they were “more reliant on spectacles and ceremony, and demonstrative and excessive violence, than the forms of sovereign power that had emerged in Europe after several centuries of centralizing efforts”.[[17]](#footnote-17) Not only were colonial subjects ruled through violence, but violence was justified as being necessary for the governance of colonized peoples because colonized peoples were inherently violent.[[18]](#footnote-18) For the colonizers violence accordingly served to contain everything they found alien and frightening in foreign lands and that threatened to undermine their fragile system of governance.[[19]](#footnote-19) As Mark Brown has argued, the seeming contradiction, in colonial contexts, between the high ethical standards the colonizers purported to follow (which demonstrated, of course, both their ability to govern themselves and to govern others) – and that they required the colonized to follow – and the violence of colonial regimes, can be explained by the fact that colonial subjects were required to be agents of obligation, and to conform to the colonizers’ notions of rationality, morality, integrity and self-control before they could be afforded rights (such as, for example, the right to govern themselves).[[20]](#footnote-20) The operation of such a contradiction means that we have to look beyond what Slavoj Žižek terms ‘subjective’ violence, or violence performed by clearly identifiable agents, in order to understand the nature of colonial violence.[[21]](#footnote-21) For subjective violence occurs in a triumvirate with two kinds of objective violence, namely systemic violence, which operates through economic and political systems, and symbolic violence, which is embodied in language and other representational forms.[[22]](#footnote-22) While subjective violence is largely regarded as “a perturbation of the ‘normal’, peaceful state of things”, objective violence, as Žižek puts it, is “the violence inherent to this ‘normal’ state of things.”[[23]](#footnote-23) It remains largely invisible, however, because it “sustains the very zero-level standard against which we perceive something as subjectively violent.”[[24]](#footnote-24)

For Foucault a relationship of violence is not a relationship of power. While the former acts upon the actions of others and ‘the Other’ is “thoroughly recognized and maintained . . . as a person who acts” (which means that resistance is inherent to such a relationship) and the latter “acts upon a body of things” (which produces passivity rather than resistance), the bringing into play of power relations does not rule out the use of violence; indeed, the exercise of power is often as dependent on violence as it is on consent.[[25]](#footnote-25) To understand the ways in which relationships of power produce or are dependent upon violence we therefore need to elucidate how both subjective and objective violence operate in conjunction with Foucault’s triumvirate of sovereign, governmental and disciplinary power – as well as the ways in which biopower works through the poles of governmental and disciplinary power. For while, as Foucault argued, these different forms of power emerged at different times, they did not replace each other; instead they formed a triangle, “which has as its primary target the population, and as its essential mechanism the apparatuses of security”.[[26]](#footnote-26) Yet scholars of colonialism – along with most other scholars who draw upon Foucault’s work – have tended to analyse the three forms of power in Foucault’s triumvirate in isolation from each other. This has led to the generation of a body of scholarship on colonial governmentalities, as well as on colonial sovereignties and disciplinary regimes, but not on how these forms of power intersected in different colonial contexts and how such intersections changed over time. But in failing to elucidate such intersections we run the risk of not only of failing to fully grasp the nature of colonial power, but the violence of colonial rule.

The reluctance to analyse such intersections is unsurprising in light of Foucault’s own failure to elucidate the connections between them. The genealogies of Foucault’s work, and the intellectual shifts that he made, are by now well known. Particularly important, for our purposes, is his work on sexuality, in which he began to engage directly with the intersections between sexuality, race and the emergence of a biopolitical rationality within the modern state – concerns that he began to elaborate further in his 1975-76 lectures at the Collège de France (although in the lectures he focuses on race rather than sexuality to trace the emergence of such biopolitical states).[[27]](#footnote-27) Such states, according to Foucault, drew upon and facilitated new disciplines of knowledge that, beginning in Europe in the seventeenth century, sought to regulate and maximize human life – to “make live and let die” – through both the disciplining of individual bodies and the regulation of the life processes of populations.[[28]](#footnote-28) These productive technologies, Foucault argues, stood in stark contrast to sovereign power, or juridico-institutional power. Operating primarily through the law, such a form of power “was exercised mainly as a means of deduction – the seizing of things, time, bodies, and ultimately the seizing of life itself” (or what Foucault termed the power to “make live and let die”) – and, since the law was armed, death remained its most powerful weapon.[[29]](#footnote-29) Yet although Foucault was interested in the ways in which sovereign power was superimposed upon disciplinary and regulatory forms of power his conception of sovereignty was theoretically rudimentary, he never elaborated on the distinction between sovereign and modern forms of power, and his explication of the nature of the relationship between sovereign and biopower (and later biopower and governmentality) remained tenuous.[[30]](#footnote-30) The linkages between race, sexuality and biopower remained, moreover, loose (he never, in particular, explicitly linked race and sexuality), and barring his elaboration of the emergence of state racism – which in the 1975-76 lectures he locates in the “colonizing genocide” of colonialism – he did not allude to the nature of the relationship between such racism and European imperialism.[[31]](#footnote-31)

Foucault focussed on biopower primarily in his 1976 lectures at the Collège de France and the final chapter of the first volume of *The History of Sexuality*. A key question that concerned Foucault in the lecture series, and that is relevant for our interests, is how such a form of power that sought to augment life authorized the right to kill? Foucault argues that it is racism that makes this possible, since it creates a hierarchy of races – between those who are virtuous, fit and superior and those who are not – and therefore fosters a division between those deemed worthy of living and those who must die. As Ann Stoler argues, it therefore “establishes a *positive* relation between the right to kill and the assurance of life. It posits that ‘the more you kill [and] let die, the more you will live’” (emphasis in original).[[32]](#footnote-32) For critics such as Giorgio Agamben, the problem with such an elucidation of the ways in which biopower can “let die” is that Foucault did not delineate the veiled point of intersection between sovereign and biopower – which for Agamben is what he terms *homo sacer,* or “bare life”, namely the human being “who *may be killed and yet not sacrificed* . . .” (emphasis in original).[[33]](#footnote-33) According to Agamben, moreover, the production of “bare life”, rather than being a modern development, is the originary endeavour of sovereign power (although it is only “in the modern era of bio‐politics that a form of life and bare life enter into a zone of irreducible indistinction”).[[34]](#footnote-34) Yet as Mika Ojakangas argues, while the production of “bare life” is vital to the establishment of sovereign power, and life is sacred for sovereign power since it can be taken away without a homicide having been committed, as the aim of biopower is to augment life it “cannot reduce life to the level of bare life, because bare life is life that can only be taken away or allowed to persist”.[[35]](#footnote-35) Although “classical sovereign states have de facto used bio-political methods just as modern bio-political societies have de facto hinged on the principles of sovereignty” there is no veiled intersection between sovereign and biopower. [[36]](#footnote-36) Violence is not, therefore, inscribed in the emergence of biopolitics. While in the biopolitical era even massacres may be enacted “*in the name of care*”, they follow from the rationality of sovereign power – which is inherently a relationship of violence – not biopower, for which death is taboo (emphasis in original).[[37]](#footnote-37) As Johanna Oksala observes, “The key problem with biopower is. . . . not the foundational violence of the sovereign, but the depoliticized violence of expert knowledge”.[[38]](#footnote-38) Rather than modern states being a synthesis of sovereign and biopower, the heterogeneity of sovereignty and biopower means that the two instead exist, therefore, in irrevocable tension.[[39]](#footnote-39)

**Tensions and Entanglements in the Operation of Governmental and Sovereign Power**

By the close of the eighteenth century, following a series of corruption scandals that brought British sovereignty in colonial India into disrepute, the East India Company sought to extend and consolidate such sovereignty through the passage of a series of acts to regulate the management of the Company’s affairs and bring it more firmly under the control of the British state – while also limiting its violent effects.[[40]](#footnote-40) The latter included the enactment of torture by both its British and Indian subjects. So when in 1793 a company military officer by the name of Captain Towns, then stationed in the important trading port of Mazulipatam on India’s Coromandel coast, reported the theft of his watch and an escritoire containing valuable papers, the Company’s Board of Governors were not impressed when the chief and Council of Mazulipatam, due to “the want of a judicial system, and of legal Courts in the Circars”, assumed the functions of a magistracy.[[41]](#footnote-41) They were even less impressed when the acting Justice of the Peace, one Mr Stratham, gave Towns “full power to proceed . . . against the persons suspected of the offence” (or, as Captain Town’s agent and interpreter, Caumiah, communicated to the Cutwal (chief officer of police), Statham had “left it to him [Towns] to do his duty and give proper punishment to the people”) – and the Cutwal proceeded to seize and torture Towns’s servants by pinning their arms and ankles, drawing them up, heads downwards, to the branch of a tree and then “scourging” them.[[42]](#footnote-42) In the face of such treatment (which was so severe that one servant, who was pregnant, suffered an abortion) “The poor servants”, in the words of the Board, signed written confessions, which were then used as evidence against them (although they retracted these under oath).[[43]](#footnote-43) But to make matters worse, and “To complete the dishonour of these inhuman proceedings” (in the course of which, the Board noted, a “respectable” native was confined and his house ransacked), Captain Towns apparently lied about the theft having taken place.[[44]](#footnote-44) While Towns defended the torture of his servants on the grounds that “’the practice is common, and is perhaps the only means of bringing rogues to justice’”, the Board accused him of conduct “of a most atrocious nature”, and showed their “utter detestation of such proceedings” by dismissing Towns from Company service.[[45]](#footnote-45)

There are several striking aspects of this case. The first is the problems posed by the fragmentary nature of British sovereignty in colonial India – including the fact that it was forced both to share sovereignty with Indian elites and to rely on Indian agents to enact such sovereignty on its behalf. The Northern Circars was a region that the Company had only begun to extend its sovereignty over in 1759 with the conquest of Masulipatam from the French. In 1765 the Company was granted the Circars by the Mughal Emperor, and in 1769 it set up a series of provincial chiefs and councils to govern the territory – a mode of government that continued until the year after the Townes affair. Such a state of fractured sovereignty helps explain why the Company had yet to extend its system of civil and criminal courts to the Circars.[[46]](#footnote-46) But even as the Company (and later crown) extended and consolidated its rule in India it remained reliant on Indians to enact its sovereignty, and as the case of the Indians involved in this affair intimates, they used such a situation to pursue their own agendas.[[47]](#footnote-47) A second significant aspect of this case is that British officials – namely Towns and Statham – were accorded full responsibility for an act of ‘unlawful’ violence perpetrated by their subordinates. There is no mention, in the Board’s records, of any punishment being meted out to the Cutwal or Towns’s agent. The Board makes it clear, in fact, that British officials such as Towns and Statham were ultimately responsible for the systematic abuse of Indians. The Townes affair thus demonstrates the ways in which, by the late eighteenth century, governmental power had begun to become entangled with sovereign power in colonial India – but not yet with necropolitics, or the technologies of control through which life is tactically subjugated to the power of death.[[48]](#footnote-48)

Indeed, the pastoral concerns displayed by the Board in this affair – for Foucault pastoral power entailed the sovereign assuming the role of a shepherd administering to a flock of sheep – are striking.[[49]](#footnote-49) Pastoral power is “a power of care” – it is, essentially, a “beneficent power”.[[50]](#footnote-50) What is particularly significant about pastoral power, for our purposes, is that it ameliorates the violence of sovereign power. As Foucault puts it, “All the dimensions of terror and of force or fearful violence, all these disturbing powers that make men tremble before the power of kings and gods, disappear in the case of the shepherd (*pasteur*), whether it is the king-shepherd or the god-shepherd.”[[51]](#footnote-51) But the Company ruled over subjects, not free individuals, which means that the primary aim of colonial governmentality was to increase the state’s economic strength through “extractive and regulatory functions” rather than to ensure the welfare of its population.[[52]](#footnote-52) As Stephen Legg observes, “There was very rarely an ethic of caring for *omnes et singulatim* (‘all and one’. . .) outside of the boundaries of the colonisers . . .”[[53]](#footnote-53) It is for this reason that although the Board condemned the violent effects of British sovereignty on Indian bodies and property, it made no real efforts to ameliorate them – by, for example, altering the rules regarding the validity of confessions as evidence and investigating the extent to which torture was used as a technology of Company rule.[[54]](#footnote-54)

This apparently began to change somewhat in the early nineteenth century when, faced with repeated torture cases, perpetrated by both Europeans and Indians, the Company started to address the problem of the use of torture to extract confessions. In the first half of the nineteenth century the chief criminal courts in each presidency, the Ṣadr Faujdari ʿAdālats, issued no less than ten circular orders on the subject.[[55]](#footnote-55) The first of these, in 1806, was brought about by the judges’ concerns regarding “the frequent instances that have been noticed on trials referred by the Courts of Circuit, of forcible means having been employed to extort confessions from suspected persons. . .”[[56]](#footnote-56) Such concerns led them to issue a proclamation requiring all company officials to instruct their subordinates “to abstain from all acts of violence towards persons apprehended by them, or committed to their custody on charges of a criminal nature”.[[57]](#footnote-57) Such courts also enacted stringent punishments against the torturers, ranging from lengthy prison terms with hard labour to transportation for life, as well as physical punishments.[[58]](#footnote-58) Thus when a man named Moottan died as a result of “atrocious cruelties” inflicted on him through torture, the court punished the man who bound and tortured the deceased, Police Ameen Hussen Khan, with 39 stripes and imprisonment in irons with hard labour for seven years.[[59]](#footnote-59) The court required, furthermore, that this sentence be proclaimed throughout the province of Malabar to serve as a warning to Police “against carrying into execution illegal orders of the Superior Police Officers, for the maltreatment of prisoners. . .” (the proclamation also had to include the fact that the Peishcar of the Kartinaad Talook, who had ordered such cruelties to be carried out, would have been likewise subject to capital punishment for such a “barbarous murder” had he not recently died).[[60]](#footnote-60) Such punishments were made possible by the passage of regulations to prohibit the enactment of torture by the police.[[61]](#footnote-61) As the Board repeatedly observed, in light of “the prevalence among Native Officers of Police of the ‘most atrocious practices’ for obtaining confessions” – practices that had led to “cruel torture” (“in some instances such as to produce death”) – it was “strongly impressed with the necessity of imposing every practiced check upon the Native Police Officers . . .”[[62]](#footnote-62)

According to Foucault, law operates differently depending on the structures of power within which it is entwined. Such orders and sentiments reveal, I would argue, the ways in which law came to operate in colonial India as a “field through which techniques of governance can intervene in the disciplinary network” – of, in other words, the growing centrality of governmental power to Company rule.[[63]](#footnote-63) But concerns about the Company’s sovereignty, rather than pastoral concerns about the welfare of the Company’s subjects, were the principal motives behind such seemingly welfarist policies. As the Ṣadr Faujdari ʿAdālat judges frequently remarked, the use of torture to extract confessions was “calculated utterly to subvert the administration of criminal justice” and to “disgrace the established system of judicial procedure”.[[64]](#footnote-64) The chief crime of Indian subordinates such as the errant Peishcar was not, therefore, their infliction of suffering, but that they so “atrociously outraged” the law (a sure sign, as Walter Benjamin argues, that “law’s interest in a monopoly of violence vis-à-vis individuals is not explained by the intention of preserving legal ends but, rather, by that of preserving the law itself”).[[65]](#footnote-65) European officials who resorted to the use of torture to extract confessions therefore revealed that they did “not possess the qualifications necessary to enable [them] to command the respect and willing obedience of the functionaries whom it devolved on [them] to direct and control”, and hence could not be effective administrators.[[66]](#footnote-66) The regime was unable, therefore, to hide its authoritarian and extractive nature – or the fact that it was engaged in what Benjamin terms “lawmaking violence” in colonial India, the sole purpose of which was to guarantee its power.[[67]](#footnote-67)

**Torture, Sovereignty and Necropolitics**

The Madras Torture Commission lays bare the shift that had taken place over the first half of the nineteenth century in both British attitudes towards torture and the operation of colonial power – namely of a gradual abandonment of pastoral power and the emergence of necropolitics. The Commission arose from pressures exerted by Parliament regarding the use of torture in extracting high revenues in the Madras presidency, accusations which laid bare the nature of Company sovereignty and exposed its supremacy as a form of power over colonial governmentality. For while the report of the Commission concurred that that the practice of torture was ubiquitous in both the collection of revenue and in policing in Madras, and insisted that there was an “urgent necessity” to provide “protection to the people against public officers. . .”, it rebuffed claims that the colonial regime was responsible for such systematic violence.[[68]](#footnote-68) The blame instead lay with “Governments immediately preceding our own . . .” and those pesky “’habits of the people themselves . . .’” (since as one Collector and Magistrate informed the Commission, it was “’impossible that a people should live for ages under despotic government without becoming degraded’”).[[69]](#footnote-69) Moreover, although “Of the 109 officials queried [by the Commission] seventy-nine responded that torture was occurring . . . thirty were non-committal . . . [and] none denied the charges”, the Commission’s report insisted that, rather than being to blame for such violence, the British were largely unaware of its existence.[[70]](#footnote-70) As one correspondent informed the Commission, this meant that “”the crying evil is bred and fostered by the people, and no system of Government can eradicate it’”.[[71]](#footnote-71)

There were, to be sure, a few voices that exposed the colonial government’s reliance of sovereign over governmental power – that argued, for example, that not only had the colonial regime “tacitly encouraged such a system” of violence, but that Indians themselves were well aware that such violence “was at least *connived* at by the Government and its Officers” (emphasis in original), or that Indian officials were forced to resort to torturing half-starved peasants since “they are obliged to collect the Revenue on pain of severe punishment, and being without effective legal means they are driven to the use of such as are illegal” (they were, therefore, “’only discharging their duty to the Government’”).[[72]](#footnote-72) But since an abiding concern was that if the government was to completely eradicate torture and “all other illegal methods of coercion” this would have a severe impact on its revenue collection (since “such is the native character, that very often those able and ready to pay their dues will not do so unless some degree of force be resorted to”), it was believed to behove the Government “to use every means in its power to prevent its just dues being evaded.”[[73]](#footnote-73) The British could not, in other words, govern India, as one sub-collector and honorary magistrate put it, through “’unfailing kindness and consideration’”.[[74]](#footnote-74) Colonial subjects could therefore only be governed through violence. This meant that, as one missionary informed the Commission, the “terror” inflicted by agencies such as the police on Indians had “’a salutary effect, on the whole . . .’” on Indian society.[[75]](#footnote-75)

As far as the Commission was concerned (not to mention the many committees, enquiries and reports that came after it), Indians were therefore responsible for their own violation thanks to an inherent depravity (ingrained by previous, ‘despotic’ systems of rule) that made them inflict violence on each other, and even on themselves – as one judge informed the Commission, “’Instances are not wanting of wounds and marks, with blistering juices, & c., being self-inflicted for such purposes’”.[[76]](#footnote-76) Torture charges could therefore be dismissed on the grounds – usually extremely poor medical evidence and unreliable (and sometimes forged) police and magisterial records – that wounds were self-inflicted. As the Governor of Bombay, Lord Elphinstone, put it, ‘false’ torture charges had to be summarily dealt with, since “if policemen are punished on false evidence it will undermine the force from doing their duty.”[[77]](#footnote-77) As one of the Commission’s correspondents remarked it was important, therefore, to be wary of “”describing those punishments’” inflicted upon recalcitrant peasants or suspected criminals “’as torture’”.[[78]](#footnote-78) As far as colonial officials were concerned, miscarriages of justice, such as putting torturers on trial for manslaughter rather than murder, were, furthermore, to be regarded as unfortunate “errors”.[[79]](#footnote-79) In light of such attitudes, charges of torture were, following the Commission and the replacement of Company with Crown rule, rarely proved in colonial courts. Harsh sentences were periodically given to perpetrators of torture, particularly during the recurrent moments when torture erupted into scandal.[[80]](#footnote-80) But for the most part the colonial government sought only to apply some “remedies” to the problem, since it maintained that the “cure . . . must of necessity be left to the more hardy progress of national advancement in the scale of civilization and social improvement”.[[81]](#footnote-81)

An examination of a torture case that resulted in death reveals the ways in which torture operated as necropolitics in late colonial India. On April 22nd, 1909, a dacoity was committed at the house of one Gamher in the village of Kamlabad in the Kishanganj Sub-Division of Purnea District, Bengal. Junior Sub-inspector Abdul Ghani and two constables proceeded, according to *The Bengalee*, to arrest and then torture three suspects (Ranu, Dhepu and Patharu) in order to force them to confess to the crime.[[82]](#footnote-82) For four days the suspects were kept tied up all day without food and water and beaten. Upon the arrival of the *daroga* (chief of police), Sub-Inspector Fazilat Hussain, and three more constables on the evening of the 25th – the point at which, according to official records, the three men were taken into custody – the suspects were subjected to further tortures, which for Ranu included having burning cow dung cakes placed under his hands and arms, and having a stone placed on his chest, which a constable then put his weight on. Ranu became unconscious from such treatment and, unable to walk to the *thana* (police station) the following day, was bound with rope and placed on a bullock cart for the 14 mile journey – which instead of taking an expected seven to eight hours, took twelve. On the 28th the suspects were brought before the Sub-divisional Officer of Kishenganj, A. W. Barnicott. Although Ramu was in a pitiful condition, the men did not receive any medical care until a relation of Patharu filed an application before Barnicott on the 28th to send them to the Charitable Dispensary for treatment, which Barnicott did not do until the following day. Shortly after arriving at the hospital Ranu died, according to his post mortem, from blood poisoning.[[83]](#footnote-83)

Nothing, apparently, would have been done about Ranu’s death had not Ranu’s son, Ekin Ali, submitted a complaint to Barnicott several days after his father’s death that the two sub-inspectors and five constables had tortured his father. A complicated series of enquiries and bureaucratic manoeuvres followed, with the complaint initially being declared false. When Ranu’s torturers were finally put on trial, almost two years after his death, Sessions Judge I. L. R. Lucas declared all of the witnesses unreliable and dismissed the charges as a conspiracy against the police.[[84]](#footnote-84) Faced with the problem of Ranu’s tortured body, Lucas drew upon the post-mortem evidence of Sub-Assistant Surgeon Babu S. K. Ghose that “’Ranu when his arms were bound must have rubbed them together and so caused abrasions of the lower arms and it was through these abrasions that dirt entered the system and produced blood poisoning’” to blame Ranu for his own torture and subsequent death.[[85]](#footnote-85) Conclusive proof that neither Ranu nor his co-suspects were tortured, for Lucas, was to be found in the fact that none of them had ever made an official complaint about their torture – which was clearly not, for Lucas, a sign that the men simply had no faith of redress for such treatment.[[86]](#footnote-86)

In the face of pressure from the Indian press and Indian government, and questions raised about the case in Parliament, the Government of Bengal ordered a further enquiry, but Sessions Judge W. H. Vincent came to the same conclusion as Lucas – although his reasoning was even more muddled. While on the one hand Vincent regarded the medical evidence as offering conclusive proof that Ranu has caused his own death (such evidence, he argued, made it “impossible that that the story now told can be true . . .” ), on the other he thought it should be viewed “with great suspicion” since the Civil Hospital Assistant was alleged to be in league with the sub-inspectors’ enemies.[[87]](#footnote-87) And while Vincent admitted that there were “certain broad facts which stand out and support the prosecution” – such as the delay in sending the suspects to Kisenganj, that Ranu arrived “with some marks of injury”, and common knowledge about police procedure (namely that “pressure is often put on a person to confess”) – he reached the astounding conclusion that individual police officers could not be convicted for applying such “pressure” when it was a practice that all police engaged in. Such logic forced Vincent to acknowledge what he sought to deny, namely that the police had tortured Ranu, since Vincent concluded that “it is quite possible, and even probable that it was the constable who used violence to the prisoner and not these officers at all.”[[88]](#footnote-88) While Vincent unwittingly acknowledged that Ranu was not culpable for his own torture and death, he nonetheless dismissed the charges.[[89]](#footnote-89) This is not to say that Ranu’s torturers completely evaded punishment, since Fazlit Hussain was degraded for six months and two constables were given drill and guard duty. But such punishment was for procedural anomalies, namely for “’binding without sufficient care the arms of the man who subsequently died and for delay in bringing their prisoner to head-quarters’” – not for torturing and killing Ranu.[[90]](#footnote-90)

Such a case reveals the ways in which, firstly, governmentality served as a mask for reducing torture suspects such as Ranu to bare life – as rendering them, in other words, capable of being killed with impunity. Such a politics of death is apparent in the rationale that the Chief Secretary to the Government of Bengal, the Honourable C. J. Stevenson-Moore, gave to the Indian government for Ranu’s treatment. Ranu, Steevenson-Moore observed, was charged with dacoity, a crime that had become “a standing menace to the peace” of Kishengang. Since such dacoities were, moreover, “frequently accompanied with murder”, it had become “necessary to adopt special measures of police for their suppression”, and as the dacoity that Ranu was accused of having taken part in had been attended by violence (Gamher’s foot had been pierced by a spear), then “the Sub-Inspector was fully justified in taking special precautions to prevent the escape of the accused prisoners”.[[91]](#footnote-91) Indeed, the concern of the many participants and observers in this case was not with Ranu’s torture or death, but with the “the very unusual course of tying up an accused person tightly with a thin rope and sending him so bound in a bullock cart over a distance of 14 miles” – a procedural anomaly that, since it arose because of the zealousness of the Kishengang police in combatting dacoity (hence all of the handcuffs in Kishengang were in use at the time of Ranu’s arrest shackling other ‘dacoits’) led, as the case of Fazlit Hussain and the two constables reveal, to few repercussions.[[92]](#footnote-92)

But such a case also reveals the relationship between subjective and objective violence in the operation of colonial rule – of the ways in which, in other words, torture functioned merely as a symptom of the many forms of structural violence that underpinned colonial rule. Such structural violence is apparent not only in the treatment that Ranu received at the hands of various officials, but in the operation of the legal system and the colonial bureaucracy. It is also apparent in the ways in which charges and complaints brought by other villagers in this case were dismissed, but those by the police were upheld. Thus the complaint of Khalni, wife of Patharu, that Sub-Inspector Ghani had cut her on the throat with a sword because she refused to give information against her husband was dismissed as “maliciously false”, as were the charges of two other villagers that Ghani and several constables had extorted money from them in return for not arresting them for dacoity (indeed, Barnicott wanted all such complainants prosecuted for bringing false charges, although this was over-ruled by the Sessions Judge). But when Sub-Inspector Fazlit Hussain laid a charge of criminal restraint against some villagers in connection with the case Barnicott convicted them (a conviction that was upheld by the High Court, although the sentence was reduced).[[93]](#footnote-93) The main concern of the Bengal and Indian governments in all of the charges and counter-charges surrounding Ranu’s case was, as Stevenson-Moore put it, that “The police emerged from all of the[m] successfully.”[[94]](#footnote-94)

Achille Mbembe argues that we need to look beyond the regime of Nazi extermination to understand the linkages between modernity and terror, to locations such as the political practices of the ancien regime, the French Revolution, slavery and the colony under an apartheid regime to locate what he terms particular “terror formation[s]”.[[95]](#footnote-95) Since colonies are “the location par excellence where the controls and guarantees of juridical order can be suspended – the zone where the violence of the state of exception is deemed to operate in the service of ‘civilization’”, colonial sovereignty was fashioned through the implementation of power outside the boundaries of law.[[96]](#footnote-96) Since, moreover, sovereignty exists in the sovereign’s power to let die, and necropolitics operates through the death of the other, what links such forms of power is death.[[97]](#footnote-97) It is therefore the death of the other within the discourse of biopower (or biopower as necropolitics), in other words, that fashions a zone of exception within the operation of power that serves as an alibi for sovereignty.[[98]](#footnote-98) The Commission thus represents a moment at which biopower came to the aid of sovereign power in colonial India - while effectively masking such linkages. So while the colonial state sought, on the one hand, to preserve life, it also made the eradication of those ‘unworthy’ of life possible. This means that for the colonial regime the difference between biopolitics and sovereignty was not that of the power to make live and let die, but the ways these two forms of power treated life and death.[[99]](#footnote-99) It was the tensions between such forms of power that led to the paradoxical situation in which the colonial regime went to considerable lengths to eradicate torture while at the same time enshrining it as a fundamental technology of colonial rule.

1. Michel Foucault, *Discipline and Punish: The Birth of the Prison*, Alan Sheridan (trans) (Harmondsworth: Penguin, 1991), pp 910. Cited in Baidik Bhattacharya, “Public Penology: postcolonial biopolitics and a death in Alipur Central Jail, Calcutta,” *Postcolonial Studies* 12, 1 (2009), p. 9. [↑](#footnote-ref-1)
2. Bhattacharya, “Public Penology”, p. 10. [↑](#footnote-ref-2)
3. Ibid, p. 11. [↑](#footnote-ref-3)
4. “Bureaucracy, Power and Violence in Colonial India,” in Peter Crooks and Tim Parsons (ed.), *Empires and Bureaucracy from Late Antiquity to the Modern World* (Cambridge, forthcoming). While the use of torture in policing and in revenue collection has a long history in the subcontinent, what changed under the British was the extent to which torture was incorporated into the legal and revenue systems. Douglas Peers, “Torture, the Police, and the Colonial state in the Madras Presidency, 1816-55,” *Criminal Justice History: An International Annual*, 12 (1991), p. 31. [↑](#footnote-ref-4)
5. *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1979), p. 7. In contrast to Foucault, John Langbein, however, argues that juridical transformations in the law of proof, rather than the emergence of disciplinary power, were responsible for the gradual disappearance, or privatization, of torture. John Lanbein, *Torture and the Law of Proof* (Chicago: University of Chicago Press, 1977). [↑](#footnote-ref-5)
6. *Discipline and Punish*, p. 8. [↑](#footnote-ref-6)
7. For an elucidation of necropolitics see Achille Mbembe, “Necropolitics”, *Public Culture* 15, 1 (2003): 11-40. [↑](#footnote-ref-7)
8. Dinesh Joseph Wadiwel, “The War Against Animals: Domination, Law and Sovereignty,” *Griffith Law Review*, 18, 2 (2009), p. 291 [↑](#footnote-ref-8)
9. Mitchell Dean, “’Demonic Societies” Liberalism, Biopolitics, and Sovereignty,” in Thomas Blom and Finn Stepputat (eds), *States of Imagination: Ethnographic Explorations of the Postcolonial State* (Durham, NC: Duke University Press, 2001), p. 55. [↑](#footnote-ref-9)
10. David Scott, “Colonial Governmentality", *Social Text*, 43 (1995), p. 197. [↑](#footnote-ref-10)
11. Gyan Prakash, *Another Reason: Science and the Imagination of Modern India* (Princeton: Princeton University Press, 1999), p. 125. [↑](#footnote-ref-11)
12. Deana Heath, *Purifying Empire: Obscenity and the Politics of Moral Regulation in Britain, India and Australia* (Cambridge: Cambridge University Press, 2010), p. 13. [↑](#footnote-ref-12)
13. Partha Chatterjee, *The Nation and its Fragments: Colonial and Postcolonial Histories* (Princeton: Princeton University Press, 1993), p. 10, and “The Disciplines in Colonial Bengal,” in Partha Chatterjee (ed.), *Texts of Power: Emerging Disciplines in Colonial Bengal* (Minneapolis and London: University of Minnesota Press, 1995) p. 8. [↑](#footnote-ref-13)
14. Heath, *Purifying Empire*, pp. 12-14. [↑](#footnote-ref-14)
15. Prakash, *Another Reason,* p. 143; and Heath, *Purifying Empire*, p. 18. [↑](#footnote-ref-15)
16. Heath, *Purifying Empire*, p. 16. [↑](#footnote-ref-16)
17. T. B. Hansen and Finn Stepputat, “Introduction”, in Hansen and Stepputat (eds), *Sovereign Bodies: Citizens, Migrants and States in the Postcolonial World* (Princeton: Princeton University Press, 2005), p. 4. [↑](#footnote-ref-17)
18. Anupama Rao and Steven Pierce, “Discipline and the Other Body: Humanitarianism, Violence, and the Colonial Exception”, in Steven Pierce and Anupama Rao (eds), *Discipline and the Other Body: Correction, Corporeality,* Colonialism (Durham and London: Duke University Press, 2006), p. 21. [↑](#footnote-ref-18)
19. Esme Cleall, *Missionary Discourses of Difference: Negotiating Otherness in the British Empire, 1840-1900* (Houndsmills, Hampshire: Palgrave Macmillan, 2012)*,* p.133. [↑](#footnote-ref-19)
20. Mark Brown, “’That Heavy Machine’: Reprising the Colonial Apparatus in 21st-Century Social Control,” *Social Justice*, 32, 1 (2005), p. 46. [↑](#footnote-ref-20)
21. Slavoj Žižek, *Violence: Six Sideways Reflections* (London: Profile Books, 2008), p. 1. [↑](#footnote-ref-21)
22. Ibid, p. 1. [↑](#footnote-ref-22)
23. Ibid, p. 2. [↑](#footnote-ref-23)
24. Ibid, p. 2. [↑](#footnote-ref-24)
25. Michel Foucault, “The Subject and Power,” *Critical Inquiry* 8 (1982), p. 789. [↑](#footnote-ref-25)
26. Michel Foucault, “Governmentality”, in *The Foucault Effect: Studies in Governmentality: With Two Lectures by and an Interview with Michel Foucault*, Graham Burchell, Colin Gordon and Peter Miller (eds) (Chicago: University of Chicago Press, 1991), p. 102. [↑](#footnote-ref-26)
27. Michel Foucault, “*Society Must Be Defended”: Lectures at the Collège de France, 1975-76,* Maurio Bertani and Alessandro Fontana (eds), trans. David Macey (New York: Picador, 1997). [↑](#footnote-ref-27)
28. Ann Stoler, *Race and the Education of Desire: Foucault’s History of Sexuality and the Colonial Order of Things* (Durham and London: Duke University Press, 1995), p. 61. [↑](#footnote-ref-28)
29. Mika Ojakangas, “Impossible Dialogue on Bio-power,” *Foucault Studies*, 2 (2005), pp. 5-6. [↑](#footnote-ref-29)
30. Mitchell Dean, *The Signature of Power: Sovereignty, Governmentality and Biopolitics* (Los Angeles: Sage, 2013), p. 28. As Johanna Oksala remarks, Foucault understood sovereign power “essentially as a repressive and coercive form of power, which operates through legal prohibitions”. Johanna Oksala, “Violence and the Biopolitics of Modernity,” *Foucault Studies*, 10 (2010), p. 36. [↑](#footnote-ref-30)
31. Stoler, *Race,* p. 62; Foucault, “*Society*”, p. 257. [↑](#footnote-ref-31)
32. Stoler, *Race,* p. 85. [↑](#footnote-ref-32)
33. Georgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998), p. 9. [↑](#footnote-ref-33)
34. Ojakangas, “Impossible Dialogue”, p. 12. [↑](#footnote-ref-34)
35. Ojakangas, “Impossible Dialogue”, p. 14. [↑](#footnote-ref-35)
36. Ibid, p. 15. [↑](#footnote-ref-36)
37. Ibid, p. 21; and Jenny Edkins and Véronique Pin-Fat, “Introduction: *Life, power, Resistance*,” in Jenny Edkins, Véronique Pin-Fat and Michael J. Shapiro, *Sovereign Lives: Power in Global Politics* (New York and London: Routledge, 2004), p. 4. [↑](#footnote-ref-37)
38. Johanna Oksala, “Violence and the Biopolitics of Modernity”, *Foucault Studies*, 10 (2010), p. 38. [↑](#footnote-ref-38)
39. Ibid, p. 26; and Dean, “’Demonic Societies’”, p. 52. [↑](#footnote-ref-39)
40. The Regulating Act of 1773 granted the East India Company the power to act as sovereign on behalf of the British crown while subjecting it to oversight by Parliament. [↑](#footnote-ref-40)
41. IOR/E/4/879, 1792-1807, Military, 5th April, 1793, p. 226, British Library (BL). The Chief, a British official, governed in conjunction with his Council, a body of British officials who were also, like the Chief, appointed by the Company. For further details on the governance of the Northern Circars see below. [↑](#footnote-ref-41)
42. Ibid, p. 227. [↑](#footnote-ref-42)
43. Ibid, p. 231. [↑](#footnote-ref-43)
44. Ibid, p. 234. Not only did Towns deny its existence when under oath, but the escritoire was later found – according to Town’s servants it had been secreted by his agent. [↑](#footnote-ref-44)
45. Ibid, p. 238. [↑](#footnote-ref-45)
46. Walter Hamilton, *A Geographical, Statistical, and Historical Description of Hindostan and the Adjacent Countries,* Vol. II (London: John Murray, 1820),p. 66. [↑](#footnote-ref-46)
47. Heath, “Bureaucracy”. [↑](#footnote-ref-47)
48. Most scholars of colonial governmentality in India date its emergence in the early decades of the nineteenth century. I am therefore suggesting that we may need to trace its genealogy to an earlier time period. [↑](#footnote-ref-48)
49. Michel Foucault, “Governmentality,” in Graham Burchell, Colin Gordon and Peter Miller (eds), *The Foucault Effect: Studies in Governmentality: With Two Lectures by and an Interview with Michel Foucault* (Chicago: University of Chicago Press, 1991), p. 104. See also “The Subject and Power”, pp. 782-84. [↑](#footnote-ref-49)
50. Michel Foucault *Security, Territory, Population: Lectures at the Collège de France, 1977-78,* ed. Michel Senellart, trans. Graham Burchell (Houndmills, Basingstoke: Palgrave Macmillan, 2007), pp. 127, 126. [↑](#footnote-ref-50)
51. Ibid*,* p. 128. [↑](#footnote-ref-51)
52. Uma Kalpagam, *Rule by Numbers: Governmentality in Colonial India* (Lanham, MD: Lexington Books, 2013), p. 139. [↑](#footnote-ref-52)
53. Stephen Legg, *Spaces of Colonialism: Delhi’s Urban Governmentalities* (Oxford: Blackwell, 2007), p. 23. [↑](#footnote-ref-53)
54. It was not until the passage of the Indian Evidence Act in 1871 that the colonial regime laid down clear rules against forced confessions, although since the act did not disallow the use of evidence that was discovered through “induced” confessions it did little to remove police incentive to torture. [↑](#footnote-ref-54)
55. IOR/P/311/47, Madras, Board of Revenue Proceedings, Fort St. George, 19th October 1854, no. 955, BL. [↑](#footnote-ref-55)
56. *Report of the Commissioners for the Investigation of Alleged Cases of Torture in the Madras Presidency* (Madras: Fort St. George Gazette Press, 1855), Appendix, p. 59. [↑](#footnote-ref-56)
57. IOR/P/311/47, p. 13945. [↑](#footnote-ref-57)
58. It is important to note, however, that many torture suspects were not convicted for their crimes, particularly Europeans. As Elizabeth Kolsky has demonstrated, Europeans who committed violent acts against Indians were able to do so with increasing impunity as the nineteenth century progressed. Elizabeth Kolsky, *Colonial Justice in British India: White Violence and the Rule of Law* (New Delhi: Cambridge University Press, 2010). [↑](#footnote-ref-58)
59. IOR/P/311/47, p. 13946. Such punishment, itself a form of torture, reveals both that judicial punishment continued to be based, in part, on physical violence (corporal punishment by order of the courts was not abolished in Britain until 1948), and that the colonial regime sought not to abolish torture but to ensure that only it had the authority to enact it. [↑](#footnote-ref-59)
60. Ibid, p. 13946. An Ameen was head of the district police, and a peishcar was a revenue officer in charge of a division of a Taluk, or revenue area. [↑](#footnote-ref-60)
61. The first of these was Regulation XI of 1816. [↑](#footnote-ref-61)
62. IOR/E/4/933, 1824-1830, Madras Desptaches, Fort St. George, Judicial, 21 March, 1827, BL. [↑](#footnote-ref-62)
63. Victor Tadros, “Between Governance and Discipline: The Law and Michel Foucault”, *Oxford Journal of Legal Studies* 14, 1 (1998), p. 79. [↑](#footnote-ref-63)
64. IOR/P/311/47, pp. 13947, 13945. [↑](#footnote-ref-64)
65. Ibid, p. 13948; and Walter Benjamin, “Critique of Violence”, *Reflections: Essays, Aphorisms, Autobiographical Writings*, trans. Edmund Jephcott (New York: Shocken, 1978), p. 281. [↑](#footnote-ref-65)
66. IOR/E/4/756, 1837-1839, India, Judicial, 17th August (no. 3) of 1838, p. 716, BL. [↑](#footnote-ref-66)
67. Benjamin, “Critique of Violence”, pp. 287, 295. [↑](#footnote-ref-67)
68. *Report*, p. 6. [↑](#footnote-ref-68)
69. Ibid*,* pp. 5, 8, 107. The report thus “addressed torture as a problem of personnel management, not as a symptom of the founding violence of colonial rule”. Yet in contrast to the Townes affair the personnel in need of management did not include Europeans. Indeed, even though the report acknowledged the high rates of acquittals in torture prosecutions and the lenient sentences awarded by European judges it did not consider the latter responsible for condoning, and hence being responsible for, the practice of torture, since “To have done so would have meant questioning the fundamental assumptions regarding the efficacy and morality of British rule”. Anupama Rao, “Problems of Violence, States of Terror: Torture in Colonial India,” in Steven Pierce and Anumpama Rao (eds.), *Discipline and the Other Body: Correction, Corporeality, Colonialism* (Durham and London: Duke UP 2006), p. 162; Anuj Bhuwania, “Very Wicked Children’: ‘Indian torture’ and the Madras Torture Commission Report of 1855” *SUR,* (10), p. 14; and Peers, “Torture”, p. 50. [↑](#footnote-ref-69)
70. Peers, “Torture”, p. 35. The Commission’s respondents, in fact, often betrayed a very blasé attitude to torture. A British businessman, for example, refused to disclose his knowledge about the torture of ryots since it might subject him “to great personal inconvenience and ultimate loss”, while a church minister complained that having to listen to such torture put him off his dinner. *Report,* pp. 139, 95. [↑](#footnote-ref-70)
71. *Report,* p. 95. [↑](#footnote-ref-71)
72. IOR/P/311/49,pp. 15106, 15105, 15125. [↑](#footnote-ref-72)
73. Ibid, pp. 15093, 15094; and *Report,* 36. [↑](#footnote-ref-73)
74. *Report,* p. 72. [↑](#footnote-ref-74)
75. Ibid*,* p. 103. [↑](#footnote-ref-75)
76. Ibid*,* p. 92. [↑](#footnote-ref-76)
77. Home, Judicial, A Proceedings, 5 January 1856, no. 15, NAI. [↑](#footnote-ref-77)
78. *Report,* p. 147. [↑](#footnote-ref-78)
79. IOR/E/4/846, 1857, p. 352. [↑](#footnote-ref-79)
80. Douglas Peers makes the important observation that, when it came to torture, “Only when abuses became public, and revealed the extent to which nominal subordinates were operating independent of British authority, was action demanded”. Peers, “Torture”, p. 31. [↑](#footnote-ref-80)
81. IOR/E/4/842, 1857, India, Judicial, 11th March (No 200 1857), p. 1162, BL. [↑](#footnote-ref-81)
82. “Extraordinary Allegation of Police Torture. Alleged Torture Ending in Death”, *The Bengalee,* 24 June, 2010, IOR/L/PJ/6/1087, File 1608: 19 Dec 1910-21 Feb 1912, BL. [↑](#footnote-ref-82)
83. “Extraordinary Allegation of Police Torture”; and “The Emperor Versus Fazilat Hussain and Abdul Ghani”, February 28th, 1911, IOR/L/PJ/6/1087. [↑](#footnote-ref-83)
84. “The Emperor Versus Fazilat Hussain”. Lucas apparently believed that the charges had been engineered by an Honorary Magistrate by the name of Kalimuddin who had a grudge against one of the Sub-Inspectors. CJ Stevenson-Moore, Chief Secretary to the Government of Bengal, to the Secretary to the Government of India, Home, 11 March 1911, IOR/L/PJ/6/1087. [↑](#footnote-ref-84)
85. “The Emperor versus Fazilat Hussain”. [↑](#footnote-ref-85)
86. Ibid. The lack of faith of torture victims in the ability of the system that had sanctioned their torture to offer redress, as well as shame (particularly for victims who had been sexually abused) ensured the silence of many sufferers of torture, although for the Indian government the dearth of complaints revealed the non-existence of torture. See Heath “Bureaucracy” and “Torture, the State and Sexual Violence Against Men in Colonial India”, *Radical History Review* 126, forthcoming; and Ruthven, *Torture: The Grand Conspiracy* (London: Weidenfield and Nicolson, 1978), pp. 196-97. [↑](#footnote-ref-86)
87. Court of Sessions Order by W H Vincent Sessions Judge, Muzaffarpur, June 27 1911, IOR/L/PJ/1087. The only ‘evidence’ that Vincent had to support such an assertion was that, although Ranu was admitted to hospital on April 28th, he was not examined by the Civil Hospital Assistant until the following night after Ranu’s dying declaration was recorded, and the fact that the post mortem results were not sent to the Civil Surgeon until 6 days after the post mortem was carried out. [↑](#footnote-ref-87)
88. Ibid. [↑](#footnote-ref-88)
89. At this point Ranu’s son Ekin Ali tried again to seek redress by lodging a complaint at the High Court of Judicature at Fort William, but based on the lower courts’ ruling (Vincent had, notably, previously sat on the Bench of the High Court) and the medical evidence they felt there was no reason for putting Fazilat and others on trial again. IOR/L/PJ/6/1087. [↑](#footnote-ref-89)
90. Minute, TM, May 1911, IOR/L/PJ/6/1087. [↑](#footnote-ref-90)
91. The Honourable C J Stevenson-Moore, Chief Secretary to the Government of Bengal, to the Secretary to the Government of India, Home Department, 16 May, 1911, IOR/L/PJ/6/1087. Such observations conveniently elide, as in the case of the Torture Commission’s report, the causes of such violence, which as David Arnold argues can be located in part in the disrupting and often devastating effect of colonialism on rural communities. David Arnold, “Dacoity and Rural Crime in Madras, 1860-1940”, *The Journal of Peasant Studies* 6, 2 (1979), pp. 140-167. [↑](#footnote-ref-91)
92. A. Earle, Officiating. Secretary to the Government of India, to the Chief Secretary to the Government of Bengal, 27 March 1911, IOR/L/PJ/6/1087. [↑](#footnote-ref-92)
93. “The Emperor versus Fazilat Hussain”. [↑](#footnote-ref-93)
94. The Honourable C J Stevenson-Moore, Chief Secretary to the Government of Bengal, to the Secretary to the Government of India, Home Department, 16 May, 1911, IOR/L/PJ/6/1087. [↑](#footnote-ref-94)
95. Mbembe, “Necropolitics”, p. 23. Necropower was central to all such terror formations, although it could take different forms, namely “the terror of actual death”, or a more “’benevolent form’” that seeks to destroy a culture in order to “’save the people’ from themselves’”. Cited in Mbembe, “Necropolitics”, p. 22 (footnote). [↑](#footnote-ref-95)
96. Ibid, p. 24. [↑](#footnote-ref-96)
97. Bhattacharya, “Public Penology”, p. 17. [↑](#footnote-ref-97)
98. Bhattacharya, “Public Penology”, p. 16. [↑](#footnote-ref-98)
99. Dean, *The Signature of Power,* p. 53. [↑](#footnote-ref-99)