**Colonial Terror:**

 **Torture and State Violence in Colonial India**

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 **Introduction**

**Torture, Empire, and the Exception**

The colonial regime owes its legitimacy to force and at no time tries to hide this aspect of things.[[1]](#footnote-1)

In 2011 the High Court of England and Wales heard a historic case that exposed facets of the brutal violence that sustained Britain’s empire. The issue at stake was whether five poor and elderly Kenyans,[[2]](#footnote-2) who had been subjected to ‘physical mistreatment of the most serious kind, including torture, rape, castration and severe beatings’ by British colonial officials during what was known as the 1952-60 Kenyan Emergency had, as the Hon. Mr. Justice McCombe remarked in his judgment summary, ‘a viable claim in law’ for their case to be heard in Britain.[[3]](#footnote-3) The question before the court was not, therefore, whether the allegations of the claimants were true (though McCombe noted that ‘no doubt has been cast upon them by the evidence before the court’), or whether the British government was liable for the injuries they had suffered, but whether they could, after a lapse of over half a century, be tried in Britain.[[4]](#footnote-4) For the defendants, the Foreign and Commonwealth Office (FCO), the answer to this question was a resounding ‘no’; the colonial government in Kenya had been ‘separate and distinct from that of the UK Government’, it argued, and hence liability for colonial violence rested, following Kenya’s independence from Britain in 1963, with the Kenyan government.[[5]](#footnote-5) Britain, according to such logic, was not responsible for the torture and other forms of violence committed by its colonial officials on the bodies of its formerly colonized subjects. According to what I shall call the displacement of colonial blame thesis, it was the former colonial subjects themselves, or their descendants, who instead bore such a burden.

For the claimants, however, it was impossible for Britain to so flagrantly airbrush its responsibility for the brutal violence to which they had been subject.[[6]](#footnote-6) In addition to the fact that the liability of the colonial administration in Kenya devolved upon the British government in 1963, rather than the Kenyan, the British government was ‘directly liable to the claimants . . . for having encouraged, procured, acquiesced in, or otherwise having been complicit in, the creation and maintenance of the ‘system’ under which the claimants were mistreated’.[[7]](#footnote-7) The British government was liable, furthermore, for violating ‘a common law duty of care’ in failing to end the systematic use of torture and other forms of violence on Kenyan bodies when it had the clear capacity to do so.[[8]](#footnote-8) What made such a duty of care clear, for the claimants, was that in addition to their being British subjects at the time they were subjected to torture, residing in a colony created by the Crown, ‘The source of the risk of harm to [them] . . . was the Colonial Government itself’.[[9]](#footnote-9)

McCombe agreed with them. In addition to the fact that the existence of a colonial government did not ‘preclude . . . a separate and individual role for the paramount government of the country whose colony a particular territory is’, the evidence before him suggested that Britain was as culpable as its colonial government in Kenya in the way in which the Emergency was managed.[[10]](#footnote-10) Indeed, McCombe argued, the idea that torture could have been so widely perpetrated as it appears to have been in colonial Kenya had the British Government genuinely wished to put a stop to it seemed highly unlikely. But even had the British government done no more than stand by and do nothing, ‘[t]he time must come when standing by and doing nothing, by those with authority and ability to stop the abuse, becomes a positive policy to continue it’.[[11]](#footnote-11) The judge was satisfied, therefore, that the claimants had a legitimate case that the British government owed them a duty of care.[[12]](#footnote-12)

McCombe went as far, in fact, as to suggest that because the case involved torture, it was ‘of such a nature that judicial policy might positively *demand* the existence of a duty of care’ in light of ‘the revulsion with which the English law regards torture’.[[13]](#footnote-13) Evidence could be plucked from numerous cases to substantiate such revulsion, he argued, such as a 2005 House of Lords appeal judgment that declared the fact that English common law had abolished judicial torture at a time it was still routine in Europe a source of national pride, since in addition to being ‘”dishonourable”’ torture corrupted and degraded ‘”the state which uses it and the legal system which accepts it”’.[[14]](#footnote-14) McCombe thus agreed with the claimants that the United Kingdom had not just a national but an international duty to protect against torture, particularly since it was a signatory to the 1987 UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, under which it was obliged to ensure legal redress to victims of torture.[[15]](#footnote-15) When it came to the ‘exceptional case’ before him, therefore, he regarded is as ‘dishonourable’ that a legal system that ‘will not in any circumstances admit into its proceedings evidence obtained by torture should yet refuse to entertain a claim against the Government in its own jurisdiction for that government's allegedly negligent failure to prevent torture which it had the means to prevent . . . ‘[[16]](#footnote-16) In a landmark ruling—‘the first time’, as the claimant’s law form declared, ‘the British Government had been held to account for colonial era abuses’—McCombe therefore found in favour of the claimants.[[17]](#footnote-17) Two years later, following an unsuccessful appeal by the FCO, the British government finally awarded an out of court settlement of £19.9 million.[[18]](#footnote-18)

McCombe was right that torture had long been prohibited in British law, and that this is a source of pride in Britain as a sign of its much-vaunted ‘rule of law’ (as journalist Ian Cobain puts it, it is a common perception that ‘the British avoid torture, if only because it is British so to do’).[[19]](#footnote-19) Such pride became, in fact, a chief justification for Britain’s ‘civilizing mission’ in colonies from Kiribati to Kenya (one of what Caroline Elkins refers to as the many ‘fictions of colonial benevolence’ that the British government has long ‘crafted and affirmed’).[[20]](#footnote-20) He did not reflect, however, or perhaps did not wish to reflect, on how it was possible that a country in which torture was regarded as dishonourable, corrupting, and degrading, and as undermining the ‘rule of law’, could nonetheless be culpable for its systematization under ‘emergency’ conditions in Kenya as part of a genocidal drive to eliminate the Kikuyu, who bore the brunt of such inhumanity.[[21]](#footnote-21) McCombe also did not, notably, question how ‘exceptional’ the case before him actually was, despite not only the existence of states of emergency in British colonies that coincided with that in Kenya (such as in Malaya 1948-1960 and in Cyprus in 1955-1959)[[22]](#footnote-22) but the revelation, during the course of the trial, of a secret FCO archive of documents detailing horrific abuses in no less than 37 British colonies.[[23]](#footnote-23) Nor did he query the justification of such an ‘emergency’ or the legitimacy of the colonial regime that it sought to defend—of, in other words, ‘the distinctive wrongness of colonialism’—even though the torture and other forms of violence to which Kenyans had been subjected were done with the aim of preserving a system of white racial privilege.[[24]](#footnote-24) He did not consider, lastly, why it took over half a century for colonial torture victims to seek or receive justice,[[25]](#footnote-25) despite the fact that questions had been raised, and voluminous evidence presented, of British brutality during the Emergency—though this was all dismissed at the time through the use of what David Anderson terms the ‘dispositional-individual’ or ‘bad apple’ thesis, or Purnima Bose refers to as the ‘rogue-colonial individualism’ theory, through which systemic colonial violence is displaced onto select individuals as a means of distancing empires from their constitutive violence.[[26]](#footnote-26)

The *Mutua* judgment was nonetheless seminal. As such it raised the hopes of thousands of others victimized by torture at the hands of British colonial regimes.[[27]](#footnote-27) But although the Foreign Office insisted that ‘there should be a debate about the past’ in order to learn from it, it continued to deny legal culpability for Britain’s colonial history.[[28]](#footnote-28) British taxpayers, according to their government, should not pay for historic crimes they had played no role in committing (despite the fact that, for victims still living with its consequences, torture cannot be quite so neatly relegated to the past).[[29]](#footnote-29) States such as Germany may therefore be continuing to apologize—and pay compensation for—crimes which few contemporary Germans played any role in committing, but Britain, according to such logic, was to be exempt from such a reckoning. Little wonder that, though restorative justice may have swept through many parts of the world in recent decades it has largely passed Britain by.[[30]](#footnote-30)

To be sure, the British government made some concessions. In what was a rare admission of the falsity of the ‘bad apple’ thesis it acknowledged that Kenyans had been subjected to torture by the colonial regime. But it sought to mitigate the inhumanity to which Kenyans had been subject through marshalling a version of the displacement of colonial blame thesis, according to which, as Foreign Secretary William Hague put it, ‘widespread violence’ and ‘terrible acts’ had been ‘committed on *both* sides’ (emphasis added)—a vindication of the violence of white supremacy reminiscent of U.S. President Donald Trump’s defence of the murder of civil rights activist Heather Heyer by white nationalist James Alex Fields, Jr.[[31]](#footnote-31) For Hague, therefore, the murders of ‘thirty-two European settlers . . . in horrific circumstances’ at the hands of a colonized people was equivalent to, and justified, the torture, maiming, or execution of an estimated 90,000 Kenyans; anti-colonial insurgency was reduced, in addition, to ‘terrorist actions’.[[32]](#footnote-32) Displacing the blame for colonial violence onto its recipients made it possible, in turn, to avoid having to apologise for it; Hague instead merely expressed ‘sincere regret’[[33]](#footnote-33) for both the torture and—lest anyone forget that Britain had been in Kenya to ‘civilize’ it—that such torture had ‘marred Kenya’s progress towards independence’ (which, by implication, Britain had been working to bring about).[[34]](#footnote-34) Apologies were clearly therefore for other, less ‘civilized’ states, ones without what Hague referred to as Britain’s ‘high standards of human rights . . .’ —such as the apology that Britain wrested out of Libya’s revolutionary leadership, during the course of the *Matua* trial (and on behalf of the Libyan people), for acts committed by the regime of the very man it was struggling to overthrow, Muammar Gaddafi.[[35]](#footnote-35)

The *Matua* case and its aftermath thus offer a number of insights into colonial violence and how it operates. The case reveals, to begin with, that such violence was often systematized, with whole swathes of colonized populations—in the case of the Kikuyu, an entire ethnic group—abandoned by the state. It demonstrates, secondly, that although Britain might conceive of torture as a barbaric practice long relegated to its past, as in the case of other liberal democratic states such violence has, instead, been central both to the disciplining, or ‘civilizing’, of what Sara Ahmed refers to as ‘other others’, as well as to the maintenance of its sovereignty.[[36]](#footnote-36) Thirdly, the case illustrates some of the many discourses and practices of denial regarding British culpability for torture and other forms of colonial violence. Since the voluminous nature of the evidence made it impossible for the British government to completely deny its accountability for systematized torture in Kenya it sought, instead, to rename (‘terrible acts’), discredit (‘bad apples’; we do not torture because we are British), and justify such violence through victim-blaming (‘terrorist actions’).[[37]](#footnote-37)

But while disclosing the nature of colonial violence, *Matua* also made such violence appear as exceptional, resorted to only ‘in times of crisis’, such as the ‘endgame’ of empire or, more recently, the new imperial, biopolitical, and exceptional global order generated by United States-led ‘war on terror’.[[38]](#footnote-38) The global torture regime established by the United States against those ‘other others’ (primarily Muslims) who, in Judith Butler’s words, are not regarded as ‘grievable’, undoubtedly serves as a sign of the ways in which, as Giorgio Agamben has argued, the exception has become the norm.[[39]](#footnote-39) Britain has also, despite how ‘well-rehearsed’ the denial of torture has become in a country whose history has been so entwined with empire, played a key role in the establishment and maintenance of such a system—and in the process developed what Ruth Blakely and Sam Raphael refer to as a ‘peculiarly British’, or ‘neo-colonial’ approach to torture.[[40]](#footnote-40) According to Blakely and Raphael, in the colonial era ‘torture formed part of a broader strategy of imperial policing and, as a result, could be blatant, widespread and extremely brutal, with British officials playing a direct role’.[[41]](#footnote-41) Beginning in the early 1970s, however, revelations of the routine use of torture by British security services in Northern Ireland led, they argue, to the generation of policy and legal constrictions on the enactment of violence by British officials, and with it the development of a ‘neo-colonial’ form of torture.[[42]](#footnote-42) Such a form entails British agents assuming a facilitatory rather than direct role in the torture enacted by United States security services and those of other states while engaging in a ‘”cautious pantomime of legal and procedural adherence”’ that enables Britain to *appear* to be observing national and international human rights norms.[[43]](#footnote-43) Drawing upon Judith Butler, the authors argue that playing such a facilitatory role in torture has been made possible by a new entwinement of sovereignty with governmentality, in which virtually unchecked power is given to unelected officials, or what Butler refers to as ‘petty sovereigns’.[[44]](#footnote-44) Such ‘sovereigns’ have engaged in acts ranging from the apprehension and detention of suspects to ‘disappearing’ them into secret prisons, as well as providing intelligence that laid the basis for torture or receiving intelligence acquired through torture.[[45]](#footnote-45) The British government has, in addition, further facilitated such activities through such means as the 2001 Anti-Terrorism, Crime and Security Act (which authorises the indefinite detention without trial of foreign nationals who cannot be deported because they are at risk of being tortured), enabling its territory to be used as a vital administrative hub by the United States in the maintenance of its global detention and torture network, and the rendition of suspects—all while repeatedly declaring Britain’s commitments to human rights.[[46]](#footnote-46)

Blakely and Raphael are undoubtedly right to point to the facilitatory role of British security services, acting as ‘petty sovereigns’, in the perpetuation of torture in the ‘war on terror’. But although there may be something decidedly British about such a role, there is, however, nothing new, or neo-colonial, about it, nor is it possible to posit a distinct break between the deployment of torture against ‘other others’ in the colonial versus post-colonial eras.[[47]](#footnote-47) Novel configurations of colonial governance undoubtedly emerged in the aftermath of the Second World War, as they did after the first, but as Kim Wagner argues, ‘the logic that underpinned the violence by which they were sustained was anything but new’.[[48]](#footnote-48) Late colonial regimes simply *seem* to have become more repressive following the emergence of anti-colonial nationalist movements because they have been largely analyzed in isolation from the structural and systemic violence that not only made colonial rule possible but that gave birth to such movements.[[49]](#footnote-49) Torture and other forms of brutal violence may, therefore, have been perpetuated by colonial regimes in ‘exceptional’ or ‘emergency’ conditions but such violence was far from exceptional.[[50]](#footnote-50) To assume it was is to ignore that the exception is merely the explosion, into the open, of violence ‘that is normally contained’, as well as to purge colonialism of its constitutive violence.[[51]](#footnote-51) This is not to deny that colonial violence takes different forms, or that there are different degrees or practices of torture. It is, in fact, a key contention of this book that we need to pay attention to the forms that colonial violence takes in order to understand the rationales behind it. But though the nature of the violence to which colonized bodies were subjected to may have varied—assaulting them with whips embedded with small pieces of iron and then rubbing salt into the wounds in order to extract information, as happened to members of the Cypriot independence EOKA movement, for example, would have posed problems for Indian police officers seeking confessions that would hold up in a court of law—it was nonetheless ‘baked into the everyday experience of empire’, part of its ‘normal (repressive) functioning’.[[52]](#footnote-52)

The aim of *Colonial Terror* is to demonstrate that extraordinary violence was part of the ordinary operation of colonial states.Focusing on India between the early nineteenth century and the First World War, this book explores the centrality of the torture of Indian bodies to the law-preserving violence of colonial rule.[[53]](#footnote-53) Since the Indian state, like all colonial regimes, was reliant on what have conventionally been termed ‘intermediaries’, which included large numbers of what I shall refer to, pace Martha K. Huggins, Mika Haritos-Fatouros, and Philip G. Zimbardo, as ‘violence workers’, the torture that I will be examining was, therefore, enacted largely by Indians, acting as ‘petty sovereigns’, on Indian bodies.[[54]](#footnote-54) But regardless of the motivations of the torturers (which I will examine in chapter four), torture was facilitated, systematized, and ultimately sanctioned by first the East India Company and, later, the Raj. This is because the torture carried out by colonial officials, particularly the police—the ‘official, instituted go-betweens’ that connected the colonial state to its colonized population—benefitted the colonial regime, since in rendering the police a source of terror such violence workers played a key role in the construction and maintenance of state sovereignty.[[55]](#footnote-55) It was because torture was so advantageous that neither the Company nor the Raj made concerted efforts to eradicate it, resorting instead to disowning and, occasionally, punishing their violence workers whenever torture erupted into scandal in order to uphold the illusion that torture was a barbaric, atavistic habit that they were keen to suppress.[[56]](#footnote-56) This book explores *why* and *how* the police in colonial India came to operate as a form of terror, and examines the role of torture as a terrorizing tactic of colonial policing.[[57]](#footnote-57)

Drawing upon the work of both Giorgio Agamben and Michel Foucault, *Colonial Terror* argues, furthermore, that it is only possible to understand the terrorizing nature of the colonial police in India by viewing the colonial regime as what I term a ‘regime of exception’. My goal, in using such a term, is to offer new insights into the nature and operation of both colonial law and state sovereignty. Although there has been considerable debate as to whether colonial regimes functioned according to a ‘rule of law’, or whether they can be viewed as states of exception,[[58]](#footnote-58) I seek to demonstrate that in the case of India two different forms, or levels, of extraordinarity, had come to characterize the British colonial regime in the operation of its sovereignty by the early nineteenth century.[[59]](#footnote-59) The first involved the creation of a state, or spaces, of exception, an ‘insidious politics of emergency’ wrought by widespread emergency regulations through which particular groups or segments of the Indian population were excluded from the law.[[60]](#footnote-60) The second level of exceptionality was generated by ‘petty sovereigns’, who through the enactment of illegal violence in the operation of the law—namely an ‘accommodation of the illegal’, or ‘lawless enforcement of the laws’—created what Didier Fassin has characterized as ‘petty states of exception’.[[61]](#footnote-61) This is not to suggest, however, that the rule of law was absent in such regimes of exception. Such regimes encompassed, instead, *both* the suspension of the law *and* the legalization of exceptional measures and practices, transforming law into what John Comaroff refers to as ‘lawfare’. [[62]](#footnote-62) The varying modes of operation of sovereign power in colonial India mean that colonial subjects were thus both *included* within the domain of colonial law while also being *abandoned* by it.[[63]](#footnote-63) It was in such fertile ground that torture was able to flourish.

**The Violence of Empire**

What animates effective rather than idle colonial history is not its timeliness—how well it fits current politics and the stories long rehearsed—but how deeply it disrupts the stories we seek to tell, what untimely incisions it makes into received narratives, how much it refuses to yield to the pathos of moral outrage or to new heroes, subaltern or otherwise.[[64]](#footnote-64)

 For at least a third of Britons the British empire is something to be proud of, and Britain’s former colonies are better off for having been colonized; no less than a quarter, moreover, wish that Britain still had an empire.[[65]](#footnote-65) Few regard it as a source of shame.[[66]](#footnote-66) The belief of British empire-builders that ‘the British Empire was not a violent concern . . .’, at least not in comparison to the Belgian, Dutch, or German empires, continues, therefore, to be widely held.[[67]](#footnote-67) Such a belief is sustained by an education system from which knowledge about or discussion of empire is sedulously excluded,[[68]](#footnote-68) a media and popular publishing industry that revels in ‘obfuscatory nostalgia’ about empire,[[69]](#footnote-69) and a wide range of academic scholarship, from imperial history to anthropology and international relations,[[70]](#footnote-70) that continues to ignore the violence, exploitation, and social suffering upon which empire was built and sustained.[[71]](#footnote-71) The work of scholars of imperial and colonial violence has, additionally, often been widely dismissed.[[72]](#footnote-72) For some scholars, it seems, violence is simply too banal to be worth bothering with; as the eminent Oxford professor of imperial and global history, John Darwin, recently observed, studying the violence wrought by empire would not ‘”add much to the sum of knowledge”’.[[73]](#footnote-73) For others aspects of such violence, such as British ‘counterinsurgency’ operations, serve as an inspirational toolkit for grappling with twenty-first century conflicts.[[74]](#footnote-74)

As a result there is, arguably, a far larger and richer body of scholarship on the violence of colonial knowledge than there is on the physical violence unleashed by empire.[[75]](#footnote-75) The scholarship on violence that does exist focuses, in addition, primarily on cataclysmic events like the Indian Revolt of 1857 and the 1919 Jallianwallagh Bagh massacre, which tend to be regarded as ‘discrete event[s] and as little more than . . . item[s] on the so-called “balance-sheet” of empire’—not, in other words, as symptoms of the structural and systemic violence of colonialism.[[76]](#footnote-76) Even the literature on colonial warfare largely evades, astonishingly, the actual experience of violence, and concentrates primarily on decolonization rather than on conquest.[[77]](#footnote-77)

Since ‘[t]o inhabit imperialist society is virtually by definition to be blind to the cruel reality of imperial domination’, such perspectives on empire are sustained by a culture of denial.[[78]](#footnote-78) In addition to being built into state ideologies, as the *Matua* case demonstrates, entire societies can slide into forms of collective denial—of, for example, forms of cruelty, discrimination or exclusion which are well known but never openly acknowledged.[[79]](#footnote-79) Such disavowal can, however, be shattered, as it was for the British in the face of the shock they experienced at the ‘”reign of terror”’ perpetrated against Indians by British troops during the Revolt of 1857-58 (referred to in imperial historiography as a ‘mutiny’), or what one commentator regarded as ‘”a war of extermination . . . in which pity was unknown”’.[[80]](#footnote-80) According to Christopher Herbert it was the realization that a ‘strain of genocidal cruelty’ was inherent in Britain’s ‘humanitarian Christian virtue . . .’ that led to the generation of profound psychological trauma in British society.[[81]](#footnote-81) For those not so enlightened, denial renders its members what Michael Rothberg refers to as ‘implicated subjects’, whose actions, while neither those of victim, perpetrator, nor bystander, help to produce and perpetuate the legacies of imperial and colonial violence and sustain the configurations of inequality that shape the present.[[82]](#footnote-82)

 This is not to suggest that the violence of empire has been completely expunged from historical memory in Britain. The evidence, particularly during moments of crisis, is simply too extensive to enable such forgetting. But as the *Matua* case reveals, rather than being forgotten, such violence is instead repeatedly ‘rediscovered’, its visibility, like that of empire itself, ‘a political artefact that has waxed and waned’.[[83]](#footnote-83) What is at stake when it comes to empire, Ann Stoler argues, is ‘a dismembering, a difficulty speaking, a difficulty generating a vocabulary that associates appropriate words and concepts with appropriate things’.[[84]](#footnote-84) The violence of empire is rediscovered, according to Stoler, when it is deemed safe for public consumption and scholarly investigation; the spurt of publications ‘disclosing’ the French use of torture against Algerians in the Algerian War of Independence since the turn of the twenty-first century, she argues, may now be deemed ‘safe’ because such works offer redemption to those willing to speak (as well as listen to) what had long remained unspoken while leaving unquestioned the systematic violence that is inherent to the ‘normal’ operation of colonial regimes.[[85]](#footnote-85)

 Stoler’s suggestion that colonial violence is rediscovered when it is ‘safe’ to do so raises interesting questions about the growing body of scholarship that has emerged since the onset of the ‘war on terror’ in 2001 that seeks not only to reassess claims that the British empire was not a ‘violent concern’ but to examine the connections between Britain’s (post)-imperial present and its imperial past.[[86]](#footnote-86) The wide range of issues such scholarship has tackled include: the dynamics of colonial violence;[[87]](#footnote-87) sovereignty and state violence;[[88]](#footnote-88) emergency/decolonizing/’counterinsurgency’ violence[[89]](#footnote-89); massacre;[[90]](#footnote-90) genocide;[[91]](#footnote-91) frontier violence;[[92]](#footnote-92) settler violence;[[93]](#footnote-93) the violence of colonial law;[[94]](#footnote-94) the violence of colonial policing;[[95]](#footnote-95) the violence of colonial prisons;[[96]](#footnote-96) convicts, transportation, and indentured labour;[[97]](#footnote-97) camps;[[98]](#footnote-98) ‘white’ violence[[99]](#footnote-99); gendered and sexual violence;[[100]](#footnote-100) torture;[[101]](#footnote-101) flogging;[[102]](#footnote-102) the representation, poetics, and aesthetics of colonial violence;[[103]](#footnote-103) violence and humanitarianism;[[104]](#footnote-104) the scandal of colonial violence;[[105]](#footnote-105) the psychology of colonial violence;[[106]](#footnote-106) pain, suffering, and trauma;[[107]](#footnote-107) and violence and the archive.[[108]](#footnote-108) Scholars have also sought to write violence back in to the narrative of empire.[[109]](#footnote-109) This growing corpus of literature has done a great deal, Darwin’s scepticism notwithstanding, to add to our ‘sum of knowledge’ about empire. But that such scholarship has undoubtedly become more ‘safe’ to pursue is not just a product of widespread opposition to the invasions of Afghanistan and Iraq, and awareness of the torture and other forms of violence that have been perpetrated as a result of these. To some extent it may also be because much of it, good intentions notwithstanding, elides the structural and quotidian violence of colonialism. As Elizabeth Kolsky has argued in regard to the scholarly focus on the violence of big events, it is in fact ‘the micro-moments betwixt and between these macro-events where the violence central to the workings of empire can be found’.[[110]](#footnote-110) The same could be said for the focus on ‘bad apples’, or states of emergency. Focusing on such ‘moments’, in other words, or on violence committed by identifiable agents can serve to exonerate empire of its most constitutive violence.

 The problem, perhaps, is how scholars of empire approach violence. Gyanendra Pandey has observed, in regard to the historiography on modern India, that violence is largely treated ‘as aberrationand as absence’; as aberration because ‘violence is seen as something removed from the general run of Indian history: a distorted form, an exceptional moment, not the ‘real’ history of India at all’, and as absence because of the difficulties in encapsulating and signifying the ‘moment’ of violence (emphasis in original).[[111]](#footnote-111) The focus on violence in South Asian historiography has largely been, in other words, on the context surrounding violence rather than on the violence itself.[[112]](#footnote-112) Since the discipline of history as a whole tends to treat violence as epiphenomenal, namely as a side-effect of historical events rather than as a subject of analysis in its own right, such a phenomena is by no means unique, however, to South Asian historiography.[[113]](#footnote-113)

 Violence tends, furthermore, to be regarded solely as an act, and not just by scholars of colonialism.[[114]](#footnote-114) In his influential essay on violence David Riches, for example, refers to it as ‘an act of physical hurt deemed legitimate by the performer and illegitimate by (some) witnesses’.[[115]](#footnote-115) According to Slavoj Žižek there are, however, two distinct forms of violence. The first, *subjective* violence, consists of the sort of violence that Riches is referring to, namely acts that are both visible and performed by identifiable agents; for Žižek such a form of violence disrupts ‘the ‘normal’, peaceful state of things’.[[116]](#footnote-116) The second, *objective* violence, includes forms of violence that can be construed of more as processes than as acts, such as structural and symbolic violence. Yet since such forms of violence lack clear agents and are largely invisible to us, we tend not to view them as forms of violence—although they play an important role in sustaining ‘the very zero-level standard against which we perceive something as subjectively violent’.[[117]](#footnote-117) That violence is generally only regarded as encompassing subjective forms is deeply problematic, for Žižek, since in focusing on evil individuals, big events, or fanatical crowds we lose sight both of the causes of such violence and the myriad forms that violence can take (which, in turn, ensures the perpetuation of less visible forms of violence).[[118]](#footnote-118) The focus on violence as a violative act also emphasizes the deviance of violence, which masks not only the similarities between, for example, state and anti-state violences (although the former benefits from the discursive advantage of being able to reconfigure violence so that it no longer appears as violence), but the ways in which both serve to restructure the world of the peoples touched by them.[[119]](#footnote-119) As John Galtung contends in a seminal article on violence, ‘*Violence is that which increases the distance between the potential and the actual*, and that which impedes the decrease of this distance’ (emphasis in original).[[120]](#footnote-120) For Galtung a life expectancy of only 30 years, though the norm in the Neolithic era, would thus be seen as a form of structural violence today since our potential life expectancies are higher than 30.[[121]](#footnote-121) Famine is likewise a form of violence if people starve when such suffering could be avoided—if it is a product, in other words, of what Akhil Gupta terms ‘malign neglect’.[[122]](#footnote-122) When it comes to empire, therefore, what Riches terms ‘violative violence’ may be the most visible form of violence but the most pervasive, and arguably most long-lasting in its effects, is ‘the structural violence that results from how the people within and between nations are ordered in terms of life chances’. [[123]](#footnote-123)

As this discussion of violence suggests, what constitutes colonial violence and how it operates are in much greater need of theorization. What are the connections, for example, between objective forms of violence such as famine and subjective forms such as massacre? Between structural and domestic violence? Between symbolic violence and what the British in colonial India referred to as ‘anarchism’ or ‘revolutionary terrorism’? Between, in other words, not only state and non-state forms, but different types of violence? We need, in short, to take fuller account both of the sheer physicality of colonialism and its impact on colonized bodies and minds. As Ranabir Samaddar observes, ‘colonial wars, violence, and terror were a physical reality—bodies were being tormented, killed, forced into labour, starved to death, dumped, or confined and controlled in multiple ways’, all of which marked, furthermore, the ways in which politics was articulated.[[124]](#footnote-124) Yet literature on the corporeality of empire remains scanty, particularly in regard to violence; far more attention has arguably been paid to the bodily experience of Europeans *within* empire than to the suffering and pain inflicted on colonized bodies as a *result* of it.[[125]](#footnote-125)

In addition, although discursive analyses have, since the ‘cultural turn’ in historical writing four decades ago, long been regarded as a means of listening to the voices of those who have been silenced,[[126]](#footnote-126) they can also serve to silence,[[127]](#footnote-127) particularly the sounds of bodies in pain. Since pain involves a transgression of the boundary between what is inside the body and what is extraneous to it, it separates us from others while also connecting us to them.[[128]](#footnote-128) Our affective responses to the pain of others serve, furthermore, to construct the border between selves and others—and, since culture and language shape our experience of pain, between selves and ‘other others’.[[129]](#footnote-129) But while separating us from others pain also connects us to them, since its existence is verified by others bearing witness to it (which thus makes pain, in addition, a sign of truth).[[130]](#footnote-130) Language plays a key role in this process, since though pain is difficult to articulate, and hence to communicate to others—which can render pain, and with it, individuals in pain, invisible—in revealing pain language discloses something that would have remained hidden.[[131]](#footnote-131) Pain is, therefore, ‘a way of being-in-the-world’, which is constituted through language, social interactions, and bodily conduct.[[132]](#footnote-132) But intense pain, such as that inflicted through torture, destroys such being-in-the-world—it is, as Elaine Scarry argues, ‘world-destroying.’[[133]](#footnote-133) In her exploration of the dialectic between the infliction of pain through torture and the ostensible goal of torture, to elicit truth through interrogation, Scarry suggests that in addition to rendering the quest for truth insignificant the agony of the victim of torture nullifies the world to which such a quest belongs, since in forcing individuals to confess the torturer compels such victims to attest to the world-destroying nature of their pain and thus to serve as agents of their own self-annihilation.[[134]](#footnote-134) For Scarry, therefore, ‘what is quite literally at stake in the body in pain is the making and unmaking of the world’, since pain ‘self-consciously and explicitly announces its own nature as an undoing of civilization, acts out the uncreating of the created contents of consciousness’.[[135]](#footnote-135) Extreme pain is thus, in short, dehumanizing.[[136]](#footnote-136)

The challenge pain poses to historians is obvious, for although it is intimately bound up with power the ways in which it is verbally represented shapes the ways in which it is, in turn, politically represented. Such a phenomenon explains why torture can be described, for example, as ‘information-gathering’ or ‘intelligence-gathering’.[[137]](#footnote-137) Listening to bodies in pain also risks fetishizing the wound by transforming it into a form of identity, which negates its historicity, transforms survivors into victims, and makes political action impossible.[[138]](#footnote-138) In rethinking empire as what J. M. Coetzee refers to as an ‘empire of pain’ my aim, instead, is to remember how Indian bodies came to be wounded in the first place in order to carve out a sphere for political action.[[139]](#footnote-139) Through analyzing the nature of colonial violence and offering a theory of how it operated, *Colonial Terror* endeavours to contribute, therefore, to understanding the materiality of colonialism and its impact on subaltern bodies and lives.

**Policing, Law, and the Colonial State**

Whether government is by men, or by law, depends to a marked extent on the nature of the Police.[[140]](#footnote-140)

Like the corporality of colonialism, colonial policing remains both considerably under-studied and under-theorized.[[141]](#footnote-141) In the case of colonial India, until relatively recently the literature on colonial policing was dominated largely by the memoirs of former, primarily British, police officials.[[142]](#footnote-142) The scholarship that has emerged since then has concentrated predominantly on the establishment and development of a system of colonial policing,[[143]](#footnote-143) as well as on the role of the Indian police in the maintenance[[144]](#footnote-144)—and demise[[145]](#footnote-145)—of colonial rule, and some of the challenges this posed to the colonial regime.[[146]](#footnote-146) Yet despite the widespread acknowledgement in such scholarship of their coercive nature—as K. S. Dhillon puts it, the Indian police were ‘the main instrument of repression and subjugation of the Indian peoples in the 90 years of British rule in India after the cataclysmic events of 1857’[[147]](#footnote-147)—relatively little attention has been paid to everyday policing,[[148]](#footnote-148) or to the rationales behind or dynamics of police violence, although some attention has been devoted to the use of torture to extract confessions.[[149]](#footnote-149) Such work takes the colonial regime at its word, however, in its oft-proclaimed desire to eradicate police torture.[[150]](#footnote-150) Following Ann Stoler’s elucidation of the importance of reading *along* rather than *against* the archival grain in order to interrogate the colonial archive ‘for its regularities, for its logic of recall, for its densities and distributions, for its consistencies of misinformation, omission, and mistake’, *Colonial Terror* suggests that such desire needs to be radically reassessed.[[151]](#footnote-151)

The lack of analysis of the dynamics of or rationales behind police violence in colonial India is perhaps surprising given the primacy accorded to coercion and violence among scholars at the forefront of policing studies, including those working on post-colonial India,[[152]](#footnote-152) as well as to the fact that social theorists have credited the police with virtually unchecked power.[[153]](#footnote-153) The ongoing prevalence of a Weberian conception of a bureaucratic, rational state with a monopoly over legitimate violence, though not existing in reality, has undoubtedly impeded discussion of the nature of or limits upon state violence, and not just in regard to colonial India.[[154]](#footnote-154) So too has the neglect of policing as an attribute of state power in studies of the colonial Indian state.[[155]](#footnote-155) Furthermore, although scholars have explored some of the limitations that relying upon a largely poor and indigenous police force placed upon the British colonial regime in India [[156]](#footnote-156) little attention has been paid to the lives and experiences of such men, or to what drove members of what T. K. Vinod Kumar and Arvind Verma term the ‘subjugated masses’ to become its violence workers—nor, as I aim to demonstrate, to the ways in which dependence upon such workers in many ways benefitted the colonial regime by enabling it to deploy the displacement of colonial blame thesis through shifting the blame for its inherent violence onto its victims.[[157]](#footnote-157)

For many scholars of policing the roots of police violence can be traced either to practices of normalising discipline wrought through bureaucracies or to manifestations and relations of sovereignty.[[158]](#footnote-158) In the case of India, the disciplinary functions of the police, along with their growing bureaucratization, are clear from at least the 1830s, as are the ways in which such bureaucratization enabled police violence.[[159]](#footnote-159) What is apparent far earlier, however, are the ways in which the Indian police served to both construct and maintain the sovereignty of the colonial state. There has, to be sure, been considerable discussion among scholars of policing in colonial India of the extent to which the Indian police followed either the civilian model of policing developed in Britain from the early nineteenth century or the paramilitary model known as the ‘Irish model’.[[160]](#footnote-160) But while other colonial police forces were undoubtedly more militarized than the Indian police—as is evident in the emphasis placed, in the ostensibly new system of civilian policing developed after the 1857 Revolt, on drill and parade, weapons training, a hierarchical and regimented structure, armed units, and the supremacy of an officer cadre consisting of ex-military men—the police in India were nonetheless structured according to ‘the *notion* of . . . a para-military organization’ (emphasis added).[[161]](#footnote-161) Rather than disciplinary power gradually usurping sovereign power, as Michel Foucault has argued happened in Europe beginning in the eighteenth century, what the Indian police therefore reveal are the ways in which sovereign power could, at the hands of ‘petty sovereigns’, continue to predominate in colonial contexts by working *through* disciplinary power.[[162]](#footnote-162)

Their role in the maintenance of sovereign power demonstrates, furthermore, that despite their virtual absence from studies of the Indian state the police in colonial India were, to borrow from Jean and John Comaroff, ‘a privileged site for staging efforts . . . to summon the active presence of the state into being, to render it perceptible to the public eye, [and] to produce both rulers and subjects who recognize its legitimacy’.[[163]](#footnote-163) In other words, it was through their performance of the colonial state that the police made it real. Such an insight builds on the work of scholars such as Philip Abrams, who argues that rather than being a material object, either concrete or abstract, the state is instead imagined into existence by societies in diverse ways.[[164]](#footnote-164) For Timothy Mitchell, drawing upon Michel Foucault’s understandings of the ways in which practices of discipline and governmentality de-centre the state, states come to be imagined through the metaphysical effect of practices that make them, as a structural effect, appear to exist.[[165]](#footnote-165) Although historians have tended to study the colonial state as a monolithic entity such insights show that ‘[t]he “colonial state” describes not a thing but a genus of historically fluid forms and processes. . .’[[166]](#footnote-166) Colonial states were thus not only imaginary and performative constructs but fragmentary and ‘fuzzy’ ones as well.[[167]](#footnote-167)

In response to such insights a growing body of scholarship has begun to explore the everyday state in colonial India, as well as how it was experienced by its colonized subjects, although relatively little attention has yet been paid to the role played by Indian subordinates in its construction.[[168]](#footnote-168) Yet the Indian state was not, as Ranajit Guha insists, ‘an absolute externality . . . with no mediating depths, no space . . . for transactions between the will of the rulers and that of the ruled’.[[169]](#footnote-169) The vast numbers of Indian subalterns who constituted its labour force made such a rigid boundary between state and society impossible, and nowhere is this more apparent than in the role played by the police, ‘”the edge of where ‘the state’ meets ‘. . . society’”’.[[170]](#footnote-170) This is because in addition to being the most visible, quotidian emblem of state power they were also deeply embedded in local social and political networks.[[171]](#footnote-171) Although some scholars have suggested that the police were effectively amalgamated into the colonial state, Lata Singh contends that ‘they could not be reduced to a mere mechanised and dehumanised agent of colonial control’.[[172]](#footnote-172) Their frequent involvement in collective violence intimates the impossibility of such a task.[[173]](#footnote-173) The Indian police were, instead ‘split subject[s]’, who drew upon state power to protect the interests of local elites while tyrannizing more marginal members of society.[[174]](#footnote-174) But although police violence ostensibly undermined the authority of the colonial state, Nandini Gooptu suggests that police tyranny was given ‘free reign’ because of its disciplinary value.[[175]](#footnote-175) Thus, while the police themselves needed to be harshly disciplined in order to prevent them from enacting the state to suit their own purposes, and not all elements of the state (notably the higher echelons of the legal system) regarded police violence in the same way, their performance of the state as powerful and oppressive was ultimately a boon for the colonial regime.[[176]](#footnote-176)

The fragmentary and performative nature of the colonial state in India means that regulation inevitably co-existed with resistance, power with paralysis, and legitimacy with illegality, but this does not translate into a state that was inherently fragile.[[177]](#footnote-177) Its cultural and ideological grounding in conquest, which made militarism one of its defining features, ensured that this was impossible.[[178]](#footnote-178) Although there is an ongoing tension in studies of the colonial state, between views of it as intrusive, uncompromising, and virtually omnipotent, and as effecting a major transformation of Indian society, to a ‘limited Raj’ that was weak and lacking in the resources and will to be so intrusive—or as having, as Ranajit Guha has argued, dominance without hegemony—focusing on the Indian police reveals that ‘the truth lies somewhere in between . . .’[[179]](#footnote-179) The violence of the colonial state undoubtedly was, as a number of scholars have shown, a product of its real and perceived vulnerabilities.[[180]](#footnote-180) This is particularly true of its most spectacular and exceptional forms. But the structural and systemic violence perpetrated by the Indian police also reveals a state for which its inherent weakness—of its need, in other words, to rely on Indian subordinates—was also the key to its strength, since it was their performance of the state that ultimately made India governable for its alien occupiers.

But if the state in colonial India was dependent on police violence, what does this reveal about the state’s relationship to the ‘rule of law’, not least since the Indian police were regarded as law’s emissary—as being central, in other words, to the construction of such a rule?[[181]](#footnote-181) The ‘rule of law’, through which the British had begun to cloak the moral legitimacy of their rule in India from the late eighteenth century, became the foremost signifier of ‘civilization’ and state legitimacy in a racialized political system in which consent could not be secured through electoral processes.[[182]](#footnote-182) It thus not only bound the colonial state together but legitimized ‘*all* aspects of [its] power, capillary and coercive, volitional and violent, arterial and instrumental’ (emphasis added).[[183]](#footnote-183) That law could legitimate such a diverse array of state practices of power demonstrates that colonial law, like the states that it served to construct, had neither the coherence nor consistency that it tends to be granted, particularly since the bulk of the scholarship on law in colonial India focuses on its legislative aspects.[[184]](#footnote-184) It was made up, instead, of a complex gallimaufry of institutions and practices.[[185]](#footnote-185)

Violence was, in addition, central to its construction, particularly objective forms.[[186]](#footnote-186) As Austin Sarat argues, the violence ‘authorized . . . or condoned by law occurs with all the abnormality of bureaucratic abstraction’; it is generally, therefore, ‘untraceably dispersed’.[[187]](#footnote-187) But such dispersal—including at the hands, for example, of the police acting as ‘petty sovereigns’—also makes the violence of the law difficult to control. The problem for the British was that despite former Indian police official J. C. Curry’s contention that ‘[e]very official act of every police officer in India—from the highest to the lowest—is based on law and on the ‘Rule of Law’’ [sic], the police as an arm of legality could only operate in a field of illegality, namely both through and beyond the law, which created a blurred boundary between where the force of law ended and the law of force began.[[188]](#footnote-188) It was thus through the colonial police that the rule of law was most intimately linked to legal exceptionalism. While this undoubtedly posed problems for the colonial regime, that such a boundary even existed was obscured by a largely overlooked aspect of colonial law, namely its performative nature.[[189]](#footnote-189) As former District Magistrate Robert Carstairs put it, even though colonial officials had little faith in the efficacy of colonial law they had to ‘go through the form’ of performing it.[[190]](#footnote-190) For the colonial regime the existence of a rule of law was less important, in other words, than maintaining the *facade* of one.[[191]](#footnote-191)

**Sovereignty, Torture and Terror**

Sovereignty is often more myth than reality, more a story that polities tell about their own power than a definite quality they possess.[[192]](#footnote-192)

That the British clung to the notion that they were bringing the ‘rule of law’ to India despite voluminous evidence that the law they brought served only their own political and economic interests is surely a sign of the ‘hallucinatory effects’ of their own ideology.[[193]](#footnote-193) But such a notion may also have been spurred by the discomfort, as William Rasch submits, generated by the figure of the sovereign in democratic states; for the British sovereignty was replaced by the rule of law, according to such a reading, because such a rule supplanted ‘the naked and arbitrary force of a wilful sovereign power . . .’[[194]](#footnote-194) This is not to propose that the aim of the rule of law in colonial India was to place constraints on executive authority. It was, instead, to make the implementation of sovereign power more respectable, to couch ‘the colonial state’s iron fist in a velvet glove’.[[195]](#footnote-195)

The needs of a regime of conquest required, in short, placing strong discretionary authority in executive power.[[196]](#footnote-196) The colonizers may have endeavoured to retain such authority in European hands, but in light of their small numbers the ability to wield sovereign power—including through the subversion of the rule of law—had out of necessity to be accorded to even the lowliest police official in order to ensure the maintenance of colonial rule. Yet although the colonial regime routinely resorted to attempts to maintain its sovereignty through suspending the rule of law in what it regarded as exceptional situations—for Lauren Benton a key characteristic of colonial states with divided or quasi-sovereignty[[197]](#footnote-197)—it also accommodated the torture and other forms of violence perpetrated by the police as an expression of sovereign power through the institutionalized acceptance of the illegal *within* the rule of law.[[198]](#footnote-198) Such accommodation demonstrates the ways in which emergency powers operated in colonial contexts as ‘an institutional . . . and racialised technique of governance’ rather than simply being a temporary response to a perceived crisis.[[199]](#footnote-199) It also reveals the role of the police in colonial India both in making state sovereignty manifest and in constructing what I have referred to as a regime of exception.[[200]](#footnote-200)

In contrast to the standard orthodoxy that modern notions of state sovereignty emerged in the aftermath of the 1648 Peace of Westphalia, critical-legal scholars have demonstrated that they were instead shaped by colonial encounters from the late fifteenth century.[[201]](#footnote-201) In the positivist international law that emerged as a result of such encounters indigenous peoples were designated as inferior to Europeans, disqualified as sovereigns, and denied dominion over their lands, while being rendered liable to physical force if they challenged such claims.[[202]](#footnote-202) But the process of acquiring sovereignty over such peoples entailed more than simply claiming a monopoly over the legitimate use of violence.[[203]](#footnote-203) It also involved, as Julie Evans argues, legally transforming them from ‘the abandoned subjects of international law (and, therefore, the objects of its force)’ to subjects who were ‘*more fully* within the pale of the individual colony’s domestic legal system *in another, different, form of subjection* to violence and discrimination otherwise condemned in law’ (emphases added).[[204]](#footnote-204) Such variable incorporation of subjects under the rule of law illumines the ways in which empire served to fracture conceptions of subjectivity as law came to distinguish different ‘kinds of people’ living under its protection.[[205]](#footnote-205) This does not mean, however, that law was absent in colonial contexts, even during states of emergency.[[206]](#footnote-206) When necessary illegal violence could be legalized retroactively, moreover, through either the declaration of martial law, in which ‘normal’ law is suspended and is replaced by military authorities acting according to a different legal lexicon, or the passage of emergency legislation.[[207]](#footnote-207)

As torture is ‘the quintessential act of exception’ the torture perpetrated by the police in colonial India offers an important lens through which to study such processes.[[208]](#footnote-208) In his magisterial study of torture perpetrated by democratic states Darius Rejali outlines several means through which democratic states come to enact torture.[[209]](#footnote-209) In what he refers to as the ‘national security’ model torture is perpetuated in states of emergency or exception as a means of re-asserting state sovereignty, as we have seen in the case of colonial Kenya.[[210]](#footnote-210) In the juridical model, on the other hand, torture does not emerge where ‘normal’ law is suspended; it is a product, instead, of the way in which law operates in ‘normal’ times.[[211]](#footnote-211) It is this model, in which ‘an enabling legal environment . . . plants the seeds of torture’, which according to Rejali it does primarily through privileging confessions as forms of evidence, that most concerns me in this book.[[212]](#footnote-212) In this model torture largely operated according to Jeremy Bentham’s unpublished musings as an act in which ‘”a person is made to suffer any violent pain of body in order to compel [them] to do something or to desist from doing something which done or desisted from the penal application is immediately made to cease”’.[[213]](#footnote-213) For Bentham, writing in the aftermath of the 1798 Irish Rebellion, torture could be justified on utilitarian grounds—namely by inducing the victim to disclose information that will benefit society at large—as a means of dealing with recalcitrant colonial subjects, who in addition to being ‘at once . . . “criminal[s]” and . . . enemy soldier[s], or rather neither quite one nor the other’ endeavoured to assume the status of sovereign by declaring themselvesan exception to the law.[[214]](#footnote-214) Torture was not legal in colonial India and was rarely explicitly justified, but its use was, as we shall see, nonetheless legitimated as a practice of law. Its operation thus demonstrates the ways in which torture violates the rule of law while maintaining a connection to the juridical order, since the victim of torture, though deprived of rights in the face of the sovereign power of the state, is nevertheless encapsulated within the state’s notion of order.[[215]](#footnote-215) It is through the institutionalization of torture that the exception becomes, in addition, normativized.[[216]](#footnote-216)

But if the act of torture marks the threshold between the inside and the outside, and thus operates, to borrow from Giorgio Agamben, as a form of ‘inclusive exclusion’, then it also serves to reduce its victims to what Agamben refers to as ‘*homo sacer*’, or a form of ‘bare life’, namely those who are capable of being killed with impunity.[[217]](#footnote-217) In her study of police torture in contemporary India, where approximately 1500 people die in custody each year, Rachel Wahl argues that for the Indian police there are two groups of people: those who they regard as worthy of rights under the law and those who they do not, and who thus, in the words of one police officer, ‘”must be eradicated like . . . weeds”’.[[218]](#footnote-218) Though not couched in the language of rights, the police in colonial India likewise viewed Indian society in terms of ‘”gradations”’, in which the most marginal members, namely the lower castes and religious minorities, were deemed the most expendable.[[219]](#footnote-219) But as it was largely the lower rungs of the colonial police—men who, like so many of their victims, were, in the words of former Indian police official T. C. Arthur, kept in such a state of impoverishment that they were little more than ‘shambling scarecrows’—who enacted torture and the police, like the torturer (for our purposes largely one and the same) are both inside and outside the field of sovereign decision, then ‘victims’ and ‘perpetrators’ were not immutable categories in colonial India.[[220]](#footnote-220) As in the case of the estimated 5,000 subordinate police who were ‘sent adrift’ during a famine as part of an attempt to reduce police expenditure—or, doubtless, some of the one-third of the entire police force of the province of Bengal who were, in any given year, deemed ‘unfit’ for service—the colonial regime’s violence workers, like their victims, could be rendered *homo sacer*.[[221]](#footnote-221)

They were not expendable, however, as a means of eradicating torture, since few police officers were sentenced to death for committing torture in colonial India, even when torture resulted in the demise of the victim. Abolishing torture was no more an aim of the British colonial state in India than was the eradication of corruption in light of the role of both in constructing the state’s sovereignty.[[222]](#footnote-222) What made the subordinate police expendable, instead, was the role the state’s disciplining of them played in such construction. For the problem for the colonial regime was that the security value of the Indian police resided not only in their oppressive or disciplinary functions but in their value as informants.[[223]](#footnote-223) As an occupying force such a regime was reliant, as numerous scholars have demonstrated, on information—on, in particular, the function of the police as intermediaries between the state and society.[[224]](#footnote-224) As a security tool their use therefore had to be finely calibrated since they posed a threat to the colonial regime if they were given either too *little* or too *much* free reign. The colonial state’s sovereignty, then, was constructed as much through *reining in* the Indian police, of disciplining them, as it was through giving them free reign.[[225]](#footnote-225) As such the colonial regime had no need to improve the dire condition of its subordinate police; such a condition instead made it possible for it to displace blame for the violence on which it depended on colonized men who were as much victims of such violence as perpetrators of it.[[226]](#footnote-226)

When it came to torture, therefore, it was only when the colonial regime’s demand or expectation for the police to enact it became too obvious—when it erupted, in other words, into scandal—that the state made ostensible attempts to eradicate it as a policing practice.[[227]](#footnote-227) According to Nicholas Dirks, no imperial ambition can ever be divorced from scandal since scandal is, ultimately, ‘what empire is all about’.[[228]](#footnote-228). But rather than undermining empire, such scandals ‘become ritual moments in which the sacrifice of the reputation of one or more individuals allows many more to continue their scandalous ways’.[[229]](#footnote-229) As Dirks argues, what must be erased is not the underlying systemic causes of scandal but the scandal itself. When it comes to empire, scandalous revelations about transgressions of the rule of law simply serve, therefore, to ensure the re-legitimization of existing norms while making empire appear to be a natural expansion of the sovereignty of the conquering power.[[230]](#footnote-230)

Since institutionalized torture operates as a form of terror, one that seeks to infiltrate the ‘life-worlds’ of the peoples who are subjected to it, the eruption of torture into scandal did nothing, therefore, to undermine the reliance of the British colonial regime in India on the terror perpetrated by the police, or the power of police *thanas* (stations) ‘to symbolise the authority, the primary unit of the alleged “Rule of Law”, its attendant terror and the exploitative nature of . . . alien rule.’[[231]](#footnote-231) This was inevitable in light both of the salutary role that ‘”a proper degree of terror”’ was regarded as having in the governance of colonized peoples, and because torture operated as a form of *collective* disciplining.[[232]](#footnote-232) While many scholars have noted the reliance of colonial regimes on terror during times of crisis what I am suggesting in *Colonial Terror*, therefore, is that terror was central to the operation of colonial systems of rule.

**Colonial Terror**

*Colonial Terror* begins, however, not with torture or terror but with a reconsideration of the nature of colonial violence, since as I argue in Chapter One, ‘Violence, the Exception and Bare Life’, rather than being an aberrant act of violence police torture in colonial India was instead simply a visible manifestation of a much broader history of quotidian, structural, and ‘civilizing’ violence. Such forms of violence, the chapter suggests, ruptured and unmade the world of the colonized, who in turn resorted to violence as a means of world-making or re-worlding. The chapter examines, in addition, how violence operated in relation to the exception through engaging with both Giorgio Agamben’s work on states of exception and Foucault’s insights on governmentality, and argues that two levels of exceptionality were in operation in contexts such as colonial India that essentially rendered them regimes of exception in which much of the colonized population was rendered *homo sacer*.

Chapter Two, ‘The Facilitators I: Policing’, focuses on the role of atrocity facilitators, particularly colonial officials and the British government, in the governmentalization of torture by the police and other officials in colonial India, and examines the ways in which, following the transfer of India’s governance from the East India Company to the Crown in 1858, the extra-legal violence of torture became systematized in India as a technology of colonial rule. Beginning with an analysis of what led to the perpetration of torture by state officials, the existence of which had long been known in both India and Britain, to erupt into scandal in 1854, the chapter interrogates how the commission set up to investigate torture led to the emergence of a new facilitatory discourse that served both to deny the existence of torture and the structural violence that underpinned it, as well as to displace blame for it from the colonial regime to its Indian subordinates. The chapter further explores how police reform in the commission’s aftermath was designed not to eradicate torture or ensure the welfare of the Indian populace but to safeguard the coercive and terrorizing powers of the colonial state.

The third chapter, ‘The Facilitators II: Law and Justice’, continues the exploration of the ways in which torture was facilitated in colonial India by analyzing the role of the judicial system in such a process. It argues that the creation of an enabling legal environment for torture was vital to the construction of India as a regime of exception. The chapter examines how, although extra-legal torture was enshrined as an offence in the Indian Penal Code and other legal provisions were made during the course of the nineteenth century to make it more difficult for the police to commit torture, the law, and with it the wider judicial system, ultimately did little to limit their official discretion to do so, most notably through privileging confessions over other forms of evidence. The chapter also considers the nature and operation of the judicial system in the nineteenth and twentieth centuries, particularly how the recruitment and training (or lack thereof) of magistrates and judges, colonial evidentiary norms, the over-reliance on medical testimony, the management of police violence extra-judiciously, and the lack of separation of powers between the judiciary and the executive enabled police torture.

Chapter Four, ‘The Perpetrators’, turns from the facilitation of torture to its perpetration. It endeavours to explicate the agency of the torturers, especially why they chose to do what they did, through analyzing the key factors that transformed Indian police officers into perpetrators of torture, who the police tortured, and how they did so. Focusing on why sexual violence, in particular, became a key component of Indian policing, the chapter draws upon what Ervin Straub terms the ‘three levels’ of torture in order to elucidate the motivations and psychological processes that drove subaltern Indian men to become torturers, the particular group dynamics and institutional structures that led to the production of a culture of torture in the Indian police, and the historical processes and cultural characteristics that provided fertile ground for the emergence of torture and other forms of extreme harm doing.[[233]](#footnote-233) Since torturers are made, not born, the chapter suggests, in addition, that police torturers in colonial India be viewed not only as perpetrators of colonial violence but as victims of it.

*Colonial Terror* concludes by exploring how the colonial regime’s attempts, in the decades following the Madras torture commission, to deny the ongoing prevalence of torture in the Indian police began to unravel in the early twentieth century thanks to the emergence of a voluble Indian press and a mass nationalist movement. But it was not until 1909, following the failures of a series of high-profile ‘conspiracy’ trials due to the ongoing reliance of the police on extorted confessions as their primary form of evidence, combined with pressure exerted by yet another group of reformist MPs, that torture once again erupted into scandal. The Indian and British governments were thus forced to act, but although the actions they took exposed the sheer scale of police torture in colonial India, they did little, once again, to attempt to eradicate it, since eradication was impossible thanks to the importance of torture to the maintenance of colonial rule. They endeavoured, instead, therefore, to make it disappear by renaming it, as well as to transform India into a fully-fledged state of exception in which police torture could continue to flourish, freed from the constraints placed on it by the rule of law.

As this introduction has undoubtedly made clear, this book is a work of history. But it is history that is deeply theoretically formed. As such it takes Ethan Kleinberg, Joan Wallach Scott, and Gary Wilder’s paean to Clio, the muse of history, seriously, namely that without theory history is but tales that signify little beyond themselves, leaving ‘the operations of power/and sources of injustice . . . mystified,/impenetrable to us mortals.’[[234]](#footnote-234) This is a work, therefore, of critical history. As such it treats theory as a ‘worldly practice’ through seeking not only to link the present to the past but to challenge the logic of both in order to question the certainties of the present and to generate possibilities for a different sort of world.[[235]](#footnote-235) This book has been a long time in the making, during the course of which right-wing regimes have risen to power in the United States, Britain, India, and other parts of the world that are predicated on a politics of hate, of a purported ‘us’ versus ‘them’, and which have been fuelled in innumerable ways by empire and its legacies. Such developments, and the many forms of resistance that have arisen in response to them, have played out in events ranging from Brexit to national responses to the covid pandemic, and made apparent what is all too often ignored or unseen by those implicated in the structural and economic violence—including torture—that continues to thrive in empire’s wake, namely its ongoing impact on the bodies of those regarded as racial, ethnic, religious, or cultural others. The time has therefore never been more pressing to offer new interventions into debates and struggles regarding colonial history and its legacies.

1. Frantz Fanon, *Concerning Violence* (first published in 1961, Constance Farrington tr, London: Penguin, 2008), 57 (hereafter Fanon, *Concerning Violence*). [↑](#footnote-ref-1)
2. The five complainants were Ndiku Mutwiwa Mutua, Paulo Nzili, Wambugu wa Nyingi, Susan Ngondi, and Jane Muthoni Mara. Susan Ngondi, however, died the year before the case was heard, and Ndiku Mutwiwa Mutua died in 2012, before the British government settled the case. David M. Anderson, ‘Mau Mau in the High Court and the ‘Lost’ British Empire Archives: Colonial Conspiracy or a Bureaucratic Bungle?’, *The Journal of Imperial and Commonwealth History* 39/5 (2011), 700 (hereafter Anderson, ‘Mau Mau’). [↑](#footnote-ref-2)
3. *Mutua & Ors v. The Foreign and Commonwealth Office* [2011] EWHC 1913 (QB), 21 July 2011 [A1], [A2] (hereafter *Matua & Ors*). [↑](#footnote-ref-3)
4. Ibid [A1]. As United Kingdom (UK) law does not recognise torture as a specific tort (a legacy, perhaps, of its imperial past?), the action brought was, instead, regarding a claim for the tort of trespass to the person, which according to Devika Hovell ‘distract[s] from important legal implications of torture’. Devika Hovell, ‘The Gulf between Tortious and Torturous: UK Responsibility for Mistreatment of the Mau Mau in Colonial Kenya’, *Journal of International Criminal Justice* 11 (2013), 224 (hereafter Hovell, ‘The Gulf between Tortious and Torturous’). [↑](#footnote-ref-4)
5. Ibid [C11]. [↑](#footnote-ref-5)
6. Ibid [D27]. [↑](#footnote-ref-6)
7. Ibid [C13. [↑](#footnote-ref-7)
8. Ibid. See also David Anderson, ‘British Abuse and Torture in Kenya’s Counter-insurgency, 1952-1960’ 23/4-5 (2012), 701 (hereafter Anderson, ‘British Abuse’). [↑](#footnote-ref-8)
9. Ibid [K156]. [↑](#footnote-ref-9)
10. Ibid [J132]. [↑](#footnote-ref-10)
11. Ibid [K143], [144]. [↑](#footnote-ref-11)
12. Ibid [K138]. The law regarding the UK government’s vicarious liability for the conduct of former colonial governments is, however, still an unresolved. Hovell, ‘The Gulf between Tortious and Torturous’ (n 4) 236. [↑](#footnote-ref-12)
13. Ibid [K153]. [↑](#footnote-ref-13)
14. *A* v *Secretary of State for the Home Department (No.2)*[[2005] UKHL 71](https://www.bailii.org/uk/cases/UKHL/2005/71.html) [82], cited in *Mutua & others,* para. K153. [↑](#footnote-ref-14)
15. *Matua & Ors,* K156.That McCombe chose the 1987 Convention Against Torture to cite rather than the 1953 European Convention on Human Rights (ECHR), which was in force during the emergency in Kenya, is noteworthy, since as Britain forced the inclusion of Article 15 into the convention, under which states can abrogate human rights norms in an emergency (though freedom from torture is one of the few rights that cannot be derogated under article 15), the passage of the ECHR does not cast Britain’s human rights records in a particularly positive light. See the Council of Europe, ‘Guide on Article 15 of the European Convention of Human Rights: Derogation in Time of Emergency’ <<https://www.echr.coe.int/Documents/Guide_Art_15_ENG.pdf>> accessed 11 May 2020; and John Reynolds, *Empire, Emergency and International Law* (Cambridge: Cambridge University Press, 2017), Ch. 4 (hereafter Reynolds, *Empire, Emergency*). [↑](#footnote-ref-15)
16. Ibid [K153]. [↑](#footnote-ref-16)
17. Leigh Day, “Historic Claims” <<https://www.leighday.co.uk/International/Historic-claims>> accessed 11 May 2020. [↑](#footnote-ref-17)
18. *Mutua & Others v The Foreign And Commonwealth Office* [2012] EWHC 2678 (QB)5 October 2012; and Ian Cobain, ‘Kenyan Mau Mau Promised Payout as UK Expresses Regret over Abuse’, *The Guardian* (London, 5 June 2013) <<https://www.theguardian.com/world/2013/jun/05/kenyan-mau-mau-payout-uk-regret-abuse>> accessed 13 May 2020. The settlement was awarded to a total of 5,228 Kenyan torture victims, but since it included a £6 million fee for the law firm Leigh Day victims received a mere £2, 658 each. Daniel Howden and Kim Sengupta, ‘59 Years Late—but Mau Mau Accept an Almost Apology’, *The Independent* (London, 7 June 2013) **<**[https://www.independent.co.uk/news/world/africa/59-years-late-but-mau-mau-accept-an—almost-apology-8648742.html](https://www.independent.co.uk/news/world/africa/59-years-late-but-mau-mau-accept-an%E2%80%94almost-apology-8648742.html)> accessed 13 May 2020. [↑](#footnote-ref-18)
19. Ian Cobain, *Cruel Britannia: A Secret History of Torture* (London: Portobello Books, 2012), xii (hereafter Cobain, *Cruel Britannia*). See also Tobias Kelly, *This Side of Silence: Human Rights, Torture, and the Recognition of Cruelty* (Philadelphia, PA: University of Pennsylvania Press, 2012), 44 (hereafter Kelly, *This Side of Silence*). Torture was formally abolished in England in 1640 and in Scotland in 1708; it is also explicitly prohibited under the 1988 Criminal Justice Act, introduced to honour Britain’s commitments under the UN Convention Against Torture. However, the Act also provides a defence for torture if the perpetrator was given ‘”lawful authority, justification or excuse”’ to enact it. ‘Torture in UK Law’ (*Justice.org*) <<https://justice.org.uk/torture-uk-law/>> accessed 11 May, 2020; and Cynthia Banham, *Liberal Democracies and the Torture of their Citizens* (Oxford: Hart Publishing, 2017), 150 (hereafter Banham, *Liberal Democracies*). See also Edward Peters, *Torture* (Oxford: Basil Blackwell, 1985); and John H. Langbein, *Torture and the Law of Proof: Europe and England in the Ancien Régime* (Chicago and London: The University of Chicago Press, 1977). [↑](#footnote-ref-19)
20. Caroline Elkins, ‘The Colonial Papers: FCO Transparency is a Carefully Cultivated Myth’, *The Guardian* (London, 18 April 2012) <<https://www.theguardian.com/politics/2012/apr/18/colonial-papers-fco-transparency-myth>> accessed 11 May 2020 (hereafter Elkins, ‘The Colonial Papers’). [↑](#footnote-ref-20)
21. See Caroline Elkins, *Imperial Reckoning: The Untold Story of Britain’s Gulag in Kenya* (New York: Henry Holt 2005),xiv, 48 (hereafter Elkins, *Imperial Reckoning*); Dominik J. Schaller, ‘Genocide and Mass Violence in the “Heart of Darkness”: Africa in the Colonial Period’, in David Bloxham and A. Dirk Moses (eds), *The Oxford Handbook of Genocide Studies* (New York: Oxford University Press 2010)*,* 359; and Martin Crook, ‘The Mau Mau Genocide: A Neo-Lemkinian Analysis’, *Journal of Human Rights in the Commonwealth* 1/1 (2013), 18-37. Though scholars have attempted to refute claims that British colonial violence in Kenya was genocidal in intent, such attempts generally focus narrowly on military history —i.e. that the British military could have killed many more people in Kenya than it did—rather than on the many forms of structural and systemic violence to which Kenyans, particularly the Kikuyu, were subject. See Huw Bennett, *Fighting the Mau Mau: The British Army and Counter-Insurgency in the Kenya Emergency* (Cambridge: Cambridge University Press, 2012), 108 (hereafter Bennett, *Fighting the Mau Mau*).For debates on the genocidal nature of colonialism see Robert Gerwarth and Stephan Malinowski, ‘Hannah Arendt’s Ghosts: Reflections on the Disputable Path from Windhoek to Auschwitz’, *Central European History* 42/2 (2009), 279-300; and Michelle Gordon, ‘Colonial Violence and Holocaust Studies’, *Holocaust Studies* 21/1 (2015), 272–91. [↑](#footnote-ref-21)
22. For the use of torture against anti—colonial movements—which scholars, using a term that legitimates colonial violence, generally refer to as ‘counter-insurgency’ campaigns but Kim Wagner more helpfully terms ‘savage warfare’—see, for example, Elkins, *Imperial Reckoning* (n 12)*;* Andrew Mumford, ‘Minimum Force Meets Brutality: Detention, Interrogation and Torture in British Counter-insurgency Campaigns’, *Journal of Military Ethics* 11/1 (2012), 10-25; Anderson, ‘British Abuse’ (n 8); Cobain, *Cruel Britannia* (n 19)*;* and Mark Curtis, *Web of Deceit: Britain’s Real Foreign Policy* (London: Vintage, 2003). See also Kim Wagner, ‘Savage Warfare: Violence and the Rule of Colonial Difference in Early British Counterinsurgency’,*History Workshop Journal* 85 (2018), 222 (hereafter Wagner, ‘Savage Warfare’). [↑](#footnote-ref-22)
23. For the ‘discovery’ of this archive and the revelation of its contents see Anderson, ‘Mau Mau’ (n 2); David Anderson, ‘Guilty Secrets: Deceit, Denial and the Discovery of Kenya’s “Migrated Archive”’, *History Workshop Journal* 80 (2015), 142-60 (hereafter Anderson, ‘Guilty Secrets’); and Elkins, ‘The Colonial Papers’ (n 20). In addition to the fact that the FCO continues to withhold many of these ‘found’ documents from public release the hidden archive did not contain the most incriminating evidence of British brutality, which was systematically destroyed as Britain ‘withdrew’ from its colonies—either incinerated or packed in weighted crates and dumped in deep water—to ensure that post-colonial states could not access any documents that ‘”might embarrass Her Majesty's government”’. In the case of Kenya this amounted to an estimated 3.5 tons of documents. Ian Cobain, “Kenya: UK Expresses Regret Over Abuse as Mau Mau Promised Payout”, *The Guardian* (London, 6 June 2013)

<<https://www.theguardian.com/world/2013/jun/05/kenyan-mau-mau-payout-uk-regret-abuse>> accessed 19 August 2020 (hereafter Cobain, ‘Kenya’); Ian Cobain, Owen Bowcott, and Richard Norton-Taylor, ‘Britain Destroyed Records of Colonial Crimes’, *The Guardian* (London, 18 April 2012) <<https://www.theguardian.com/uk/2012/apr/18/britain-destroyed-records-colonial-crimes>> accessed 13 May 2020; and Caroline Elkins, ‘Looking Beyond Mau Mau: Archiving Violence in the Era of Decolonization’, *T*he American Historical Review 120/3 (2015), 860 (hereafter Elkins, ‘Looking Beyond Mau Mau’). [↑](#footnote-ref-23)
24. Vittorio Bufacchi, ‘Colonialism, Injustice, and Arbitrariness’, *Journal of Social Philosophy* 48/2 (2017), 97;and Chris McGreal, ‘Torture and Killing in Kenya—Britain’s Double Standards’, *The Guardian* (London, 8 April 2011) <<https://www.theguardian.com/commentisfree/2011/apr/08/torture-killing-kenya-britain-mau-mau>> accessed 13 May 2020 (hereafter McGreal, ‘Torture and Killing’). For more on the establishment of such a system, in particular the expropriation of Kikuyu lands, see Elkins, *Imperial Reckoning* (n 12) 21-25. [↑](#footnote-ref-24)
25. There were innumerable hindrances that prevented victims of colonial violence from obtaining redress. In the Kenyan case part of the problem was that because association with the Mau Mau, which had advocated violent resistance against British rule, was criminalized until 2002, fear of prosecution kept victims from coming forward. Huw Bennett, ‘Kenyan Mau Mau: Official Policy Was to Cover up Brutal Mistreatment’, *The Guardian* (London, 5 May 2013) <<https://www.theguardian.com/commentisfree/2013/may/05/kenyan-mau-mau-cover-up-mistreatment>> accessed 13 May 2020; and Anderson, ‘Guilty Secrets’ (n 23) 153. [↑](#footnote-ref-25)
26. Anderson, ‘British Abuse and Torture’ (n 8), 701; Purnima Bose, *Organizing Empire: Individualism, Collective Agency, and India* (Durham, NC: Duke University Press 2003), 2. According to Mark Doyle the ‘bad apple’ thesis served to mark out particular individuals as ‘brutal exception[s] to the general rule of ‘minimum force’ by which most British imperial forces abided’. Mark Doyle, ‘Massacre by the Book: Amritsar and the Rules of Public-Order Policing in Britain and India’, *Britain and the World* 4/2 (2011), 248 (hereafter Doyle, ‘Massacre by the Book’). [↑](#footnote-ref-26)
27. See, for example, Owen Boycott, ‘Mau Mau Lawsuit Due to Begin at High Court’, *The* *Guardian* (London, 22 May 2016) <<https://www.theguardian.com/law/2016/may/22/mau-mau-kenya-compensation-lawsuit-high-court>> accessed 13 May 2020; Helena Smith, ‘Cypriot Veterans Win Right to Claim Damages Over UK Torture Claims’, *The Guardian* (London, 12 January, 2018) <<https://www.theguardian.com/world/2018/jan/12/cypriot-veterans-win-right-to-claim-damages-over-uk-torture-claims>> accessed 19 May 2020; Sophocleous & Ors *v The Secretary of State for Foreign And Commonwealth Affairs & Anor* [2018] EWCA Civ 2167; and Helena Smith, ‘UK to pay £1m to Greek Cypriots Over Claims of Human Rights Abuses’, *The Guardian* (London, 23 January 2019) <<https://www.theguardian.com/world/2019/jan/23/britain-to-pay-group-of-greek-cypriots-1m-after-claims-of-human-rights-abuse>> accessed 19 May 2020. [↑](#footnote-ref-27)
28. HC Deb 6 June 2013, 563, col. 1693; Cobain, ‘Kenya’ (n 23). [↑](#footnote-ref-28)
29. HC Deb 6 June 2013, 563, col. 1692, 1695; Cobain, ‘Kenya’ (n 23). [↑](#footnote-ref-29)
30. Caroline Elkins, ‘Alchelmy of Evidence: Mau Mau, the British Empire and the High Court of Justice’, *The Journal of Imperial and Commonwealth History* 39/5 (2011), 731. [↑](#footnote-ref-30)
31. HC Deb 6 June 2013, 563, col. 1692, 1696; and Michael D. Shear and Maggie Haberman, ‘Trump Defends Initial Remarks on Charlottesville; Again Blames ‘both sides’’, *The New York Times* (New York, 15 August 2017 <<https://www.nytimes.com/2017/08/15/us/politics/trump-press-conference-charlottesville.html>> accessed 13 May 2020. [↑](#footnote-ref-31)
32. HC Deb 6 June 2013, 563, col. 1696. Although 95 European settlers had actually died Hague notably did not provide any statistics on the number of Kenyans murdered by Europeans. Simon Webb, *A History of Torture in Britain* (Barnsley: Pen & Sword History, 2018), 109 (hereafter Webb, *A History of Torture*). [↑](#footnote-ref-32)
33. The trope of regret has become the standard response of the British government too all demands that it redress the wrongs of its imperial past. See, for example,

Owen Bowcott and Ian Cobain, ‘UK Sternly Resists Paying Reparations for Slave Trade Atrocities and Injustices’, *The Guardian* (London, 24 February 2014) <<https://www.theguardian.com/world/2014/feb/24/uk-resists-reparation-slavery>> accessed 19 May 2020; Robin McKie, ‘After 100 Years, Still no Apology for Amritsar Massacre’, *The Guardian* (London, 14 April 2019 <<https://www.theguardian.com/world/2019/apr/14/calls-for-apology-100-years-after-amritsar-massacre>> accessed 19 May 2020; and Charlotte Graham-McLay, ‘UK Expresses ‘Regret’ Over Māori Killings After Cook’s Arrival in New Zealand’, *The Guardian* (London, 2 October 2019 <<https://www.theguardian.com/world/2019/oct/02/britain-expresses-regret-over-maori-killings-after-captain-cooks-arrival-in-new-zealand>> accessed 19 May 2020. [↑](#footnote-ref-33)
34. HC Deb 6 June 2013, 563,col. 1692; see also ‘UK to Compensate Kenya's Mau Mau Torture Victims’, Press Association, *The Guardian* (London, 6 June 2013). <<https://www.theguardian.com/world/2013/jun/06/uk-compensate-kenya-mau-mau-torture>> accessed 13 May 2020. [↑](#footnote-ref-34)
35. HC Deb 6 June 2013, 563,col. 1696; and McGreal, ‘Torture and Killing’ (n 24). The hearings for *Matua & Ors* were held April 7-14, 2011. [↑](#footnote-ref-35)
36. Sara Ahmed ‘This Other and Other Others’, *Economy and Society* 31/ 4 (2002), 558-72. For the use of torture as a ‘civilizing’ tool see Talal Asad, ‘On Torture, or Cruel, Inhuman and Degrading Treatment’, in Arthur Kleinman, Veena Das, and Margaret Lock (eds.), *Social Suffering* (University of California Press, 1997), 285-308; Marina Lazreg, *Torture and the Twilight of Empire: From Algiers to Baghdad* (Princeton: Princeton University Press 2008); and Samera Esmeir, *Juridical Humanity: A Colonial History* (Stanford: Stanford University Press 2012)*,* 145(hereafter Esmeir, *Juridical Humanity*)*.* For the relationship between torture and democracy see Darius Rejali, *Torture and Democracy* (Princeton and Oxford: Princeton University Press, 2007) (hereafter Rejali, *Torture and Democracy*); Jinee Lokaneeta, *Transnational Torture: Law, Violence, and State Power in the United States and India* (New York and London: New York University Press 2011) (hereafter Lokaneeta, *Transnational Torture*); W. Fitzhugh Brundage, *Civilizing Torture: An American Tradition* (Cambridge, MA and London: The Belknap Press of Harvard University Press 2018); Banham, *Liberal Democracies* (n 19); and Shampa Biswas and Zahi Zalloua, *Torture: Power, Democracy and the Human Body* (Seattle, WA: University of Washington Press 2011). [↑](#footnote-ref-36)
37. According to Stanley Cohen these are the standard forms that official denial takes. See Stanley Cohen, *States of Denial: Knowing about Atrocities and Suffering* (Cambridge: Polity Press 2001), xi (hereafter Cohen, *States of Denial*). [↑](#footnote-ref-37)
38. Mark Condos, *The Insecurity State: Punjab and the Making of Colonial Power in British India* (Cambridge: Cambridge University Press 2017), 8 (hereafter Condos, *The Insecurity State*); and Cobain, *Cruel Britannia* (n 19) 90. As Ruth Blakely and Sam Raphael note, however, the torture and other forms of violence enacted against ‘other others’ in the ‘endgame’ of empire and the ‘war on terror’ are intimately connected, with the latter ‘less a departure from the normative [249] behaviour of leading liberal-democratic states as provided by a new “state of exception”, and more the re-emergence of practices that have lain at the heart of the US and British imperial projects for decades’. Ruth Blakely and Sam Raphael, ‘British Torture in the “War on Terror”’, *European Journal of International Relations* 23/2 (2017), 250 (hereafter Blakely and Raphael, ‘British Torture’). For scholarship on the ‘war on terror’ and the state of exception see Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (London and New York: Verso 2004) (hereafter Butler, *Precarious Life*); Giorgio Agamben, *State of Exception* (Kevin Attell tr, Chicago and London: The University of Chicago Press 2005) (hereafter Agamben, *State of Exception*)*;* Jef Huysmans, ‘International Politics of Insecurity: Normativity, Inwardness and the Exception’, *Security Dialogue* 27/1 (2006), 11-29; Vivienne Jabri, ‘War, Security and the Liberal State’, *Security Dialogue* 37/1 (2006), 47-64; and Andrew W. Neal, *Exceptionalism and the Politics of Counter-Terrorism: Liberty, Security and the War on Terror* (London: Routledge 2009). Some scholars argue that such an exceptional global order emerged earlier. See, for example, Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press 2000), 9-10, 180, 345 (hereafter Hardt and Negri, *Empire*); and Mithi Mukherjee, *India in the Shadows of Empire: A Legal and Political History (1774-1950)* (New Delhi: Oxford University Press 2010), 5. [↑](#footnote-ref-38)
39. Butler, *Precarious Life* (n 38) 34; and Agamben, *State of Exception* (n 38) 2. The literature on the United States’ torture regime is far too vast to do justice to here. Notable examples include: Butler, *Precarious Life* (n 38); Slavoj Žižek, ‘Between Two Deaths: The Culture of Torture’, *London Review of Books* (3 June, 2004) <<http://www.lacan.com/zizektorture.htm>> accessed 27 May 27 2020; Hazel Carby, ‘A Strange and Bitter Crop: The Spectacle of Torture’ (*Open Democracy*, 11 October 2004) <<https://www.opendemocracy.net/en/article_2149jsp/>> accessed 27 May 2020); Paul W. Kahn, *Sacred Violence: Torture, Terror and Sovereignty* (Ann Arbor: University of Michigan Press, 2008); Tzvetan Todorov, *Torture and the War on Terror* (London: Seagull, 2009); and United States and Dianne Feinstein, *The Senate Intelligence Committee Report on Torture: Committee Study of the Central Intelligence Agency's Detention and Interrogation Program* (2014) <<https://www.intelligence.senate.gov/sites/default/files/publications/CRPT-113srpt288.pdf>> accessed 27 May 2020. [↑](#footnote-ref-39)
40. Caroline Elkins, ‘The “Moral Effect” of Legalized Lawlessness: Violence in Britain’s Twentieth-Century Empire’, *Historical Reflections* 44/1 (2018), 79; and Blakely and Raphael, ‘British Torture’ (n 38) 244, 250. See also Sir Peter Gibson, *The Report of the Detainee Inquiry* (London: The Stationery Office, 2013); and Banham, *Liberal Democracies* (n 19)Ch. 6. For works on Britain’s role in the extradition, interrogation, and torture of individuals who were classified not as ‘accused’ or ‘enemy combatants’ but ‘detainees’ (see Agamben, *State of Exception* (n 38) 4, for the significance of this term), as well as use of information obtained through torture, see, for example, Alex Danchev, ‘Accomplicity: Britain, Torture and Terror’, *British Journal of Politics & International Relations* 8/4 (2006), 587-601;Phillip N. S. Rumney, ‘The Torture Debate: A Perspective From the United Kingdom’, in Jon Moran and Mark Phythian (eds), *Intelligence, Security and Policing Post-9/11* (Houndmills, HA: Palgrave Macmillan 2008), 135-158; Mark Elliott, ‘Torture, Deportation and Extra-Judicial Detention: Instruments of “The War on Terror”’, *Cambridge Law Journal* 62/2 (2009), 245-248; Jamie Gaskarth, ‘Entangling Alliances? The UK’s Complicity in Torture in the Global War on Terrorism’, *International Affairs* 87/4 (2011), 945-64; Roger Gough, Stuart McCracken, and Andrew Tyrie, *Account Rendered: Extraordinary Rendition and Britain’s Role* (London: Biteback Pub. 2011); Kelly, *This Side of Silence* (n 19); Cobain, *Cruel Britannia* (n 19); A. T. Williams, *A Very British Killing: The Death of Baha Mousa* (London: Jonathan Cape 2013); Vian Bakir, *Torture, Intelligence and Sousveillance in the War on Terror: Agenda-Building Struggles* (London and New York: Routledge 2016); Blakely and Raphael, ‘British Torture’ (n 38); and Satvinder S. Juss, ‘U.S. Torture on ‘Black Sites’: A Lesson From Great Britain?’, in Satvinder S. Juss (ed.), *Human Right and America’s War on Terror* (London and New York: Routledge 2019), 161-82. [↑](#footnote-ref-40)
41. Blakely and Raphael, ‘British Torture’ (n 38) 250. [↑](#footnote-ref-41)
42. Ibid. [↑](#footnote-ref-42)
43. Blakely and Raphael, ‘British Torture’ (n 38) 251; and Banham, *Liberal Democracies* (n 19) 119-122. Blakely and Raphael note, however, that ‘echoes of colonial-era torture’ can be seen in the behaviour of British security services in Iraq. The true scale of the torture committed by such services has never, however, been disclosed. In 2010 the British government established The Iraq Historic Allegations Team to investigate allegations against British security personnel who had served in Iraq—albeit in order, in effect, to exonerate them; it was set up, in addition, in such a way as to prevent investigation of wider questions regarding accountability or the systemic nature of torture and other forms of violence. Yet the sheer number of allegations—there were 3,400 open cases by 2017—combined with jingoistic, right-wing media and political outrage over ‘”spurious claims” and ‘”vile witch-hunts”’ against ‘”war heroes”’ led the Conservative government to shut the investigation down that same year without any cases having been prosecuted (it has, however, paid out more than £21 million to Iraqi torture victims in over 300 separate cases, despite continuing to deny liability for such claims). However, in 2014 the International Criminal Court began an investigation into Britain’s war crimes in Iraq that, at the time this manuscript went to press is still ongoing, and in 2018 the parliamentary Intelligence and Security Committee published a report on detainee mistreatment and rendition in Iraq that detailed both the direct and indirect involvement of UK security services in torture, although its insights were limited by the British government’s refusal to provide access to key witnesses and the report has yet to be followed by a public inquiry. The British government’s hostile environment for the treatment of asylum seekers who are victims of torture, which includes holding them in indefinite detention, along with the tremendous breadth in executive powers conferred by the 2018 European Union (Withdrawal) Act and its repeated commitment to repealing the 1998 Human Rights, leave little hope, furthermore, that the UK will address its torture record in Iraq. Blakely and Raphael, ‘British Torture’ (n 38) 250; Samira Shackle, ‘Why We May Never Know if British Troops Committed War Crimes in Iraq’, *The Guardian* (London, 7 June 2018) <<https://www.theguardian.com/news/2018/jun/07/british-troops-war-crimes-iraq-historic-allegations-team>> accessed 28 May 2020; Owen Bowcott, ‘The Hague Says Claims of War Crimes by UK Troops Have “Reasonable Basis”, *The Guardian* (London, 4 December 2017) <<https://www.theguardian.com/law/2017/dec/04/icc-to-continue-investigation-into-claims-of-war-crimes-by-british-troops>> accessed 28 May 2020; Intelligence and Security Committee of Parliament, *Detainee Mistreatment and Rendition: 2001-2010* (2018);

and Redress, ‘The UK's Implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’ (March 2019) <<https://redress.org/wp-content/uploads/2019/05/UK-Implementation-of-UNCAT_REDRESS_March2019_Web.pdf>> accessed 8 May 2020. [↑](#footnote-ref-43)
44. Blakely and Raphael, ‘British Torture’ (n 38) 245; and Buter, *Precarious Life* (n 38) 56. Although Blakely and Raphael use the term ‘biopower’ instead of ‘governmentality’ I have retained the more accurate term that Butler uses. See also 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), 87-104; and Michel Foucault, ‘*Society Must Be Defended’: Lectures at the Collège de France, 1975-76,* Maurio Bertani and Alessandro Fontana (ed.) (David Macey tr, New York: Picador, 1997). [↑](#footnote-ref-44)
45. Blakely and Raphael, ‘British Torture’ (n 38) 246-49. See also Owen Bowcott, ‘MI5 Policy Gives Agents “Legal Immunity” To Commit Serious Crimes’, *The Guardian* (London, 5 November 2019) <<https://www.theguardian.com/uk-news/2019/nov/05/mi5-policy-gives-agents-legal-immunity-to-commit-serious-crimes>> accessed 27 May 2020;

# ‘Supreme Court Rules Torture and Rendition Claims Against UK Government Should Proceed’ *(Justice.Org*., 17 January 2017) <<https://justice.org.uk/wp-content/uploads/2017/01/Belhaj-Supreme-Court-press-release-2017-01-17.pdf>> accessed 28 May 2020; and Banham, *Liberal Democracies* (n 19) 123-25.

 [↑](#footnote-ref-45)
46. Ibid, 246-47, 252-57; and Banham, *Liberal Democracies* (n 19)147; see also Ian Cobain and Ewen MacAskill, ‘The True Scale of UK Role in Torture and Rendition After 9/11 Revealed’, *The Guardia* (London, 28 June 2018) <<https://www.theguardian.com/uk-news/2018/jun/28/uk-role-torture-kidnap-terror-suspects-after-911-revealed>> accessed 27 May 2020; and Dan Sabbagh, ‘MoD Says Revised Torture Guidance Does Not Lower Standards’, *The Guardian* (London, 20 May 2019). <<https://www.theguardian.com/law/2019/may/20/rewritten-mod-guidance-could-leave-door-open-for-torture>> accessed 27 May 2020. Parliament, the judiciary, civil rights organizations, and the press—particularly *The Guardian*—have, however, done much to challenge such a narrative. Yet the former has also served to undermine it, as in the sanctioning of the use of evidence obtained through torture by the House of Lords in 2005. See 303 *A (FC) v Secretary of State* [2005] UKHL 71, cited in Banham, *Liberal Democracies* (n 19)149-50. [↑](#footnote-ref-46)
47. The United States also, of course, gave tremendous power to its ‘petty sovereigns’ in the ‘war on terror’, as Butler demonstrates, but in contrast to British personnel they were clearly not restricted to a purely facilitatory role in the perpetuation of torture. See Butler, *Precarious Life* (n 38). [↑](#footnote-ref-47)
48. Kim Wagner, ‘”Calculated to Strike Terror”: The Amritsar Massacre and the Spectacle of Colonial Violence’, *Past and Present* 233 (2016), 223. [↑](#footnote-ref-48)
49. Ibid. On structural violence see n 116. [↑](#footnote-ref-49)
50. The same can be said for the desire to avoid being seen to perpetuate torture, which is the reason why, according to Simon Webb, the British largely employed colonial subjects to do it. Webb, *A History of Torture* (n 30)98. [↑](#footnote-ref-50)
51. Nancy Scheper-Hughes, ‘Bodies, Death, and Silence’, in Nancy Scheper-Hughes and Philippe Bourgois (eds), *Violence in War and Peace: An Anthology* (Malden, MA: Blackwell 2006), 177. As numerous studies have shown, torture can operate as a form of ‘contained’ as well as exceptional violence. See, for example, Darius Rejali, *Torture and Modernity: Self, Society, and State in Modern Iran* (Boulder, CO: Westview Press 1994; Rejali, *Torture and Democracy* (n 36); Lokaneeta, *Transnational Torture* (n 36); George C. Thomas III and Richard A. Leo, *Confessions of Guilt: Torture to Miranda and Beyond*(New York: Oxford University Press 2012) (hereafter Thomas and Leo, *Confessions of Guilt*); Rachel Wahl, *Just Violence: Torture and Human Rights in the Eyes of the Police* (Stanford: Stanford University Press 2017) (hereafter Wahl, *Just Violence*); and Jinee Lokaneeta, *The Truth Machines: Policing, Violence and Scientific Interrogations in India* (Ann Arbor, MI: University of Michigan Press 2020) (hereafter Lokaneeta, *The Truth Machines*); and Laurence Ralph, *The Torture Letters: Reckoning With Police Violence* (Chicago: University of Chicago Press 2020). [↑](#footnote-ref-51)
52. Ray Furlough, ‘Cypriots Seek Recompense Over British “Torture”’, *BBC News* (London, 20 November 2012) <<https://www.bbc.co.uk/news/world-europe-20302280>> accessed May 18 2020; Richard N. Price, ‘The Psychology of Colonial Violence’, in Phillip Dwyer and Amanda Nettlebeck (eds), *Violence, Colonialism and Empire in the Modern World* (Cham, Switzerland: Palgrave Macmillan 2018), 25 (hereafter Price, ‘The Psychology of Colonial Violence’); and Reynolds, *Empire, Emergency* (n 15) 37. Torture by officials in colonial India, according to Derek Elliott, was less severe when enacted to secure revenue than to obtain a confession. Derek Llewellyn Elliott, ‘Torture, Taxes and the Colonial State in Madras, c. 1800-1858’ (PhD Diss., University of Cambridge 2015), 116 (hereafter Elliott, ‘Torture, Taxes’). [↑](#footnote-ref-52)
53. As my date range demonstrates, I am using the term ‘colonial rule’ to encompass the governance of India by both the East India Company and the Raj, rather than positing the 1857 Revolt as a seminal break in modes of governance. For an analysis of the concept of law-preserving violence see Walter Benjamin, ‘Critique of Violence’, *Reflections: Essays, Aphorisms, Autobiographical Writings*, (Edmund Jephcott tr, New York: Shocken 1978), 277-300 (hereafter Benjamin, ‘Critique of Violence’). [↑](#footnote-ref-53)
54. Martha K. Huggins, Mika Haritos-Fatouros, and Philip G. Zimbardo, *Violence Workers: Police Torturers and Murderers Reconstruct Brazilian Atrocities* (Berkeley: University of California Press 2002) (hereafter Huggins, Haritos-Fatouros and Zimbardo, *Violence Workers*). [↑](#footnote-ref-54)
55. Fanon, *Concerning Violence* (n 1)3. Torture thus exacerbated the emotional significance attached to the police, as society’s regulators, of apprehension, anxiety, and fear. K. S. Dhillon, *Defenders of the Establishment: Ruler-Supportive Police Forces of South Asia* (Shimla: Indian Institute of Advanced Study 1998), 28 (hereafter Dhillon, *Defenders of the Establishment*). [↑](#footnote-ref-55)
56. Webb, *A History of Torture* (n 30), 100. [↑](#footnote-ref-56)
57. I am using the term ‘terror’ here in its original sense, which Elleke Boehmer and Stephen Morton designate as‘a brutal material and corporeal experience of sovereign power in the raw’, or what Ranabir Samaddar describes as ‘uncertainty, the capacity to scare, “terrorize”, violence, symbolic violence, extra-ordinary methods, unaccountability, uncertain prospects, different rules (if you understand them) of engagement and murder, and different methods . . .’ Elleke Boehmer and Stephen Morton, ‘Introduction: Terror and the Postcolonial’, in Elleke Bohmer and Stephen Morton (eds), *Terror and the Postcolonial: A Concise Companion* (Oxford: Wiley-Blackwell 2010), 12; and Ranabir Samaddar, ‘Colonial State, Terror and Law’,in Imtiaz Ahmed (ed.), *Understanding Terrorism in South Asia: Beyond Statist Discourses* (Manohar: Regional Centre for Strategic Studies, Colombo 2006), 47. See also Partha Chatterjee, ‘Terrorism: State Sovereignty and Militant Politics in India’, in Carol Gluck and Anna Lowenhaupt Tsing, *Words in Motion: Toward a Global Lexicon* (Durham, NC: Duke University Press 2009), 240; and Alex Tickell, *Terrorism, Insurgency and Indian-English Literature, 1830-1947*(New York and London: Routledge 2012), 11-12 (hereafter Tickell, *Terrorism, Insurgency*). [↑](#footnote-ref-57)
58. See, for example, Achille Mbembe, ‘Necropolitics’, *Public Culture* 15/1 (2003), 11-40 (hereafter Mbembe, ‘Necropolitics’);Nasser Hussain, *The Jurisprudence of Emergency:**Colonialism and the Rule of Law* (Ann Arbor: The University of Michigan Press 2003) (hereafter Hussain, *The Jurisprudence of Emergency*); Randall Williams, ‘A State of Permanent Exception: The Birth of Modern Policing in Colonial Capitalism’, *Interventions: International Journal of Postcolonial Studies* 5/3 (2003), 322-44; Thoms Blum Hansen and Finn Stepputat, ‘Introduction’, in Thomas Blom Hansen and Finn Stepputat

(eds), *Sovereign Bodies: Citizens, Migrants, and States in the Postcolonial World*(Princeton and Oxford: Princeton University Press 2005), 1-36; Arun Chowdhury, ‘The Colony as Exception (Or, Why Do I Have to Kill You More than Once?’, *Borderlands* 6/3 (2007) <<http://www.borderlands.net.au/vol6no3_2007/chowdhury_once.htm>> (accessed 17 June 2020);Tom Lloyd, ‘States of Exception? Sovereignty and Counter-insurgency in British India, Ireland and Kenya *circa* 1810-1960’ (PhD Diss., The University of Edinburgh 2009); Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (New York: Cambridge University Press 2010) (hereafter Benton, *A Search for Sovereignty*); Tickell, *Terrorism, Insurgency* (n 57); Marcelo Svirsky and Simone Bignall (eds), *Agamben and Colonialism*(Edinburgh: Edinburgh University Press 2012); Stephen Morton, *States of Emergency: Colonialism, Literature and Law* (Liverpool: Liverpool University Press,2013); Helle Rydstrom, ‘Politics of Colonial Violence: Gendered Atrocities in French Occupied Vietnam’, *European Journal of Women’s Studies* 22/2 (2015), 191-207; Reynolds, *Empire, Emergency* (n 15)*;* Durba Ghosh, *Gentlemanly Terrorists: Political Violence and the Colonial State in India, 1919-1947* (New York: Cambridge University Press 2017); and Bhavani Raman, ‘Law in Times of Counter-insurgency’,in Aparna Balachandran, Rashmi Pant and Bhavani Raman, *Iterations of Law: Legal Histories from India* (New Delhi: Oxford University Press 2018), 120-46 (hereafter Raman, ‘Law in Times’). [↑](#footnote-ref-58)
59. I have drawn the basis of such a framework from Santana Khanikar’s insightful work on the violence of the postcolonial Indian state, *State, Violence and Legitimacy in India* (New Delhi: Oxford University Press 2018) (hereafter Khanikar, *State, Violence and Legitimacy*). [↑](#footnote-ref-59)
60. Reynolds, *Empire, Emergency* (n 15) 90. [↑](#footnote-ref-60)
61. Khanikar, *State, Violence and Legitimacy* (n 59)71-72; Upenda Baxi, *The Crisis of the Indian Legal System* (New Delhi: Vikas Publishing House Pvt. Ltd. 1982), 87 (hereafter Baxi, *The Crisis*); and Didier Fassin, ‘Petty States of Exception: The Contemporary Policing of the Urban Poor’,in Mark Maguire, Catarina Frois, and Nils Zurawski (eds), *The Anthropology of Security: Perspectives from the Frontline of Policing, Counter-terrorism and Border Control* (London: Pluto 2014), 104-17 (hereafter Fassin ‘Petty States of Exception’); see also Radha Kumar, ‘Police Matters: Law and Everyday Life in Rural Madras, c. 1900-1960’ (PhD Diss., Princeton University 2015), 249 (hereafter Kumar, ‘Police Matters’). Neeladri Bhattacharya offers an excellent analysis of the ways in which ‘petty sovereigns’ transformed the pre-colonial practice of *begar*, or unpaid labour, into a system of forced labour, which was then, through the passage of the 1903 Military Transport Act, ‘sanctified as legal contract’. See Neeladri Bhattacharya, ‘Violence and the Languages of Law’, in Aparna Balachandran, Rashmi Pant, and Bhavani Raman (eds), *Iterations of Law: Legal Histories from India* (New Delhi: Oxford University Press 2018)), 114 (hereafter Bhattacharya, “Violence”). [↑](#footnote-ref-61)
62. John Comaroff, ‘Colonialism, Culture and Law: A Foreward’, *Law and Social Inquiry*

26 (2001), 306 (hereafter Comaroff, ‘Colonialism, Culture and Law’); and Elizabeth Kolsky, ‘The Colonial Rule of Law and the Legal Regime of Exception: Frontier “Fanaticism” and State Violence in British India’, *American Historical Review* 120/4 (2015), 1245 (hereafter Kolsky, ‘The Colonial Rule of Law’). [↑](#footnote-ref-62)
63. Bhattacharya, ‘Violence’ (n 61) 108. [↑](#footnote-ref-63)
64. Ann Laura Stoler, ‘Colonial Aphasia: Race and Disabled Histories in France’, *Public Culture* 23/1 (2011), 144 (hereafter Stoler, ‘Colonial Aphasia’). [↑](#footnote-ref-64)
65. ‘How Unique are British Attitudes to Empire?’ (*YouGov*, 11 March 2020) <<https://yougov.co.uk/topics/international/articles-reports/2020/03/11/how-unique-are-british-attitudes-empire>> accessed 1 June 2020. The number of Britons who regard empire in a positive light has apparently fallen, however; in a similar survey in 2014 no less than half the respondents felt that empire was something to be proud of. Furthermore, almost 70 percent of the 2,703 Britons surveyed in 2019 on whether ‘historical injustice, colonialism and the role of the British Empire’ should be taught in schools approved of such a motion—although whether survey respondents regarded ‘historical injustice’ and the ‘British Empire’ as synonymous is unclear. ‘The British Empire is “Something to Be Proud Of”’ (*YouGov*, 26 July 2014) <<https://yougov.co.uk/topics/politics/articles-reports/2014/07/26/britain-proud-its-empire>> accessed 1 June 2020; and ‘Do you think that historical injustice, colonialism and the role of the British Empire should or should not be taught as part of the national curriculum?’ (*YouGov,* 27 November 2019) <<https://yougov.co.uk/topics/arts/survey-results/daily/2019/11/27/72aa7/2>> accessed 1 June 2020. [↑](#footnote-ref-65)
66. Ibid. Only 19% of Britons, according to the poll, view empire in this light. [↑](#footnote-ref-66)
67. Esme Cleall, *Missionary Discourses of Difference, 1840-1900: Negotiating Otherness in the British Empire, 1840-1900* (Houndsmills, Hampshire: Palgrave Macmillan 2012), 145; Wagner, ‘Savage Warfare’ (n 22) 223. [↑](#footnote-ref-67)
68. #  Deana Heath, ‘**School Curriculum Continues to Whitewash Britain’s Imperial Past’ (*The Conversation*, 27 January 2016) <**<https://theconversation.com/school-curriculum-continues-to-whitewash-britains-imperial-past-53577>> accessed 3 June 2020; and Deana Heath, ‘**British Empire is Still Being Whitewashed by the School Curriculum**—**Historian on Why This Must Change’ (*The Conversation,* 2 November 2018) <**<https://theconversation.com/british-empire-is-still-being-whitewashed-by-the-school-curriculum-historian-on-why-this-must-change-105250>> accessed 3 June 3 2020. See also A. D. Burns, ‘The Jewel in the Curriculum: Teaching the History of the British Empire’, *History Education Research Journal* 12/2 (2014), 109-21.

 [↑](#footnote-ref-68)
69. Stephen Howe, ‘Colonising and Exterminating? Memories of Imperial Violence in Britain and France’, *Histoire@Politique: Politique, Culture et Société* 11 (2010) [DOI: <https://doi.org/10.3917.hp.011.0012>] (hereafter Howe, ‘Colonising and Exterminating?’). As Paul Gilroy has argued, such nostalgia has functioned as a means of dealing with what he refers to as the ‘postcolonial melancholia’ wrought by the demise of empire. Paul Gilroy, *After Empire: Melancholia or Convivial Culture?* (London, Routledge, 2004). Notable examples of popular historical works that extol empire include Niall Ferguson, *Empire: How Britain Made the Modern World* (London: Penguin 2003); Piers Brendan, *The Decline and Fall of the British Empire, 1781-1997* (New York: Knopf 2008); H. W. Crocker, II, *The Politically Incorrect Guide to the British Empire* (Washington, D.C.: Regnery 2011); and Jeremy Paxman, *Empire: What Ruling the World Did to the British* (London: Penguin 2012). For an analysis of the portrayal of empire in British television shows see James Morris, ‘Popularisation of Imperial History: The Empire on Television’, *The Journal of Imperial and Commonwealth History* 1/1 (1972), 113-18; and N. C. Fleming, ‘Echoes of Britannia: Television History, Empire and the Critical Public Sphere’, *Contemporary British History* 24/1 (2010), 1-22. [↑](#footnote-ref-69)
70. Part of the difficulty in regard to academic scholarship is the ways in which empire has, or has failed to be, written into British history since the ‘imperial turn’ in the 1980s, although the ignoring—or, in some cases, outright denial—of the violence that pervaded Britain’s empire is more not simply a problem particular to British history. See, for example, Keith Windshuttle, *The Fabrication of Aboriginal History* (Sydney: Macleay Press, 2002); Antoinette Burton (ed.), *After the Imperial Turn: Thinking Through and With the Nation* (Durham and London: Duke University Press, 2003); and Joanna de Groot, *Empire and History-Writing in Britain c. 1750-2012* (Manchester: Manchester University Press, 2013), Ch. 5. For the silence of the disciplines of anthropology and international relations about the violence of empire see Nancy Scheper-Hughes and Philippe Bourgois, ‘Introduction: Making Sense of Violence’, in Nancy Scheper-Hughes and Philippe Bourgois (eds), *Violence in War and Peace: An Anthology* (Malden, MA: Blackwell, 2006), 6-8 (hereafter Scheper-Hughes and Bourgois, ‘Introduction’); and Randolph B. Persaud and Narendran Kumarakulasingam, ‘Violence and Ordering of the Third World’, *Third World Quarterly* 40/2 (2019), 199-206. [↑](#footnote-ref-70)
71. Social suffering, according to Arthur Kleinman, ‘is the effect of the *social violence* that social orders—local, national, global—bring to bear on people’ through denying them basic human rights or subjecting them to various forms of deprivation, exploitation and abuse’ (emphasis in original). Arthur Kleinman, ‘The Violences of Everyday Life: The Multiple Forms and Dynamics of Social Violence’, in Veena Das, Arthur Kleinman, Mamphela Ramphele, and Pamela Reynolds (eds), *Violence and Subjectivity* (Berkeley: U.C. Press 2000), 226. [↑](#footnote-ref-71)
72. The scholarly response to Caroline Elkins’ Pulitzer-prize-winning work on the Kenyan Emergency is a case in point. See Elkins, ‘Alchelmy of Evidence’ (n 30); Marc Parry, ‘A Historian’s Day in Court’ (*Chronicle of Higher Education* 62/38 (2016) <<https://www.chronicle.com/article/A-Historians-Day-in-Court/236656>> accessed 22 May 2020); Susan Carruthers, ‘Being Beastly to Mau Mau’, *Twentieth Century British History* 16/4 (2005), 489-96; and Bethwell Ogot, ‘Britain’s Gulag’, *Journal of African History* 46/3 (2005), 493-505. [↑](#footnote-ref-72)
73. Duncan Bell, ‘A Roundtable on John Darwin's The Empire Project: Comment: Desolation Goes before Us’, Journal of British Studies 54/4 (2015), 994, cited in Wagner, ‘Savage Warfare’ (n 22) 218. Darwin is not alone, however, in regarding violence as banal. As Hannah Arendt has argued, it is precisely the sheer ubiquity and banality of violence that has led historians to neglect studying it, since it is difficult to question what appears to be obvious. Hannah Arendt, *On Violence* (New York: Harcourt 1970), 9. [↑](#footnote-ref-73)
74. Wagner, ‘Savage Warfare’ (n 22) 220. See, for example, John A. Nagl, Learning To Eat Soup With a Knife: Counterinsurgency Lessons from Malaya and Vietnam (Chicago: University of Chicago Press, 2005); Ian Beckett, ‘Another British Way in Warfare: Charles Callwell and Small Wars’, in Ian Beckett (ed.), Victorians at War: New Perspectives (Chippenham, Wilts: The Society forArmy Historical Research 2007), 89-102; and Thomas R. Mockaitis, ‘The Minimum Force Debate: Contemporary Sensibilities Meet Imperial Practice’, Small Wars & Insurgencies 23/4-5 (2012), 762-80. [↑](#footnote-ref-74)
75. Elizabeth Kolsky, *Colonial Justice in British India: White Violence and the Rule of Law* (New Delhi: Cambridge University Press 2010), 8 (hereafter Kolsky, *Colonial Justice*). In the case of colonial India, Kama Maclean and Benjamin Zachariah suggest that the lack of emphasis on the violent nature of colonialism until relatively recently is a product of the dominance of British historiography in the study of South Asia, which concentrated on issues such as liberalism and colonial rule, as well as an over-reliance on the administrative records produced by the colonial state, from which state violence is largely elided. Similar problems have beset the study of other colonial contexts. Kama Maclean and Benjamin Zachariah, ‘Violence, Non-Violence, the State and the Nation: *India*, 1858-1958’, in Louise Edwards, Nigel Penn, and Jay Winter (eds), *The Cambridge World History of Violence*, Vol. IV(Cambridge: Cambridge University Press, 2020), 69. [↑](#footnote-ref-75)
76. Kim Wagner, *Amritsar 1919: An Empire of Fear & The Making of a Massacre* (New Haven and London: Yale University Press 2019), xviii (hereafter Wagner, *Amritsar 1919*). In the case of the Amritsar Massacre, such a view helps to explain the repeated calls for the British government to apologize for it, as though that would wipe the ‘balance-sheet’ clean (ibid). [↑](#footnote-ref-76)
77. Much of the scholarship on decolonisation also evades addressing the violence that accompanied it. For exceptions see, for example, Elkins, *Imperial Reckoning*;David Anderson, *Histories of the Hanged: Britain’s Dirty War in Kenya* (New York: W. W. Norton, 2005); and Bennett, *Fighting the Mau Mau*. [↑](#footnote-ref-77)
78. Christopher Herbert, *War of No Pity: The Indian Mutiny and Victorian Trauma* (Princeton and Oxford: Princeton University Press 2009), 5 (hereafter Herbert, *War of No Pity*). Denial, as Catherine Hall and Daniel Pick note, drawing upon the *Oxford English Dictionary,* is ‘”an unconscious mechanism used to reduce anxiety by denying thoughts, feelings, or facts that are consciously intolerable”’. For Hall and Pick, ‘disavowal’ might be a more helpful term to employ in such a context since it embodies notions of turning a ‘blind eye’, or the refutation of something that is right in front of us because it is too disturbing to acknowledge, which entails both knowing and not knowing at the same time. Such ‘blindsight’, or ‘wilful amnesia’, according to Linda Colley, is also a product of ignorance and introversion. Catherine Hall and Daniel Pick, ‘Thinking about Denial,’ *History Workshop Journal* 84 (2017), 10, 11; Price, ‘The Psychology of Colonial Violence’ (52) 36; andLinda Colley, ‘Introduction: Some Difficulties of Empire: Past, Present and Future’, *Common Knowledge* 11/2 (2005), 208. See also Ann Laura Stoler, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton, N.J.: Princeton University Press 2009), 237-78 (hereafter Stoler, *Along the Archival Grain*). [↑](#footnote-ref-78)
79. Cohen, *States of Denial* (n 37) 10-11. [↑](#footnote-ref-79)
80. John William Kaye, *A History of the Sepoy War in India, 1857-58,* Vol. 1 (London: W. H. Allen 1877), 170 and Vivian Dering Majendie, *Up Among the Pandies; Or, A Year’s Service in India* (London: Routledge, Warne and Routledge 1859)*,* 196, cited in Herbert, *War of No Pity* (n 78)9, 175. [↑](#footnote-ref-80)
81. Herbert, *War of No Pity* (n 78) 55. See also Joanna de Groot, ‘Depicting Conflict in India in 1857-8: The Instabilities of Gender, Violence, and Colonialism’, *Cultural and Social History* 14/4 (2017), 472-73. The revolt thus revealed the reality of what Albert Memmi calls the ‘Nero’ complex, according to which the colonizers, unable to deal with the realization that they are oppressors instead of the benign civilizers they believe themselves to be, respond with growing contempt for their victims, which is manifested through an irrational desire to exterminate the subject population and an increasingly authoritarian and repressive system of rule. For Zahid Chaudhary it is the alienation of the colonizers induced by such a process, to both their own pain and that of the other, that makes such violence possible. Albert Memmi, *The Colonizer and the Colonized* (first published in 1957, Boston: Beacon Press 1965); Herbert, *War of No Pity* (n 78)74, 80; and Zahid Chaudhary, ‘Phantasmagoric Aesthetics: Colonial Violence and the Management of Perception’, *Cultural Critique* 59 (2005), 107 (hereafter Chaudhary, ‘Phantasmagoric Aesthetics’). [↑](#footnote-ref-81)
82. Michael Rothberg, *The Implicated Subject: Beyond Victims and Perpetrators* (Stanford: Stanford University Press 2019), 1. Not all members of a society are, of course, implicated in the same ways, or to the same degrees. For Rothberg ‘[t]he point of introducing the ‘implicated subject’ is to draw attention to ambiguous spaces that do not fit neatly into our scripts for explaining violence and injustice’; it is thus ‘an umbrella term that gathers a range of subject positions . . . ‘ (f7, 13). [↑](#footnote-ref-82)
83. Angela Woollacott, ‘Making Empire Visible or Making Colonialism Visible? The Struggle for the British Imperial Past’, *British Scholar* 1/2 (2009), 163. Ann Laura Stoler makes a similar argument regarding the ‘discovery’ of colonial violence in France. Forgetting, Stoler notes, ‘is an achieved state’. Part of the challenge in articulating the violence of empire, I would argue, is what Pierre Bourdieu and Loïc Wacquant refer to as ‘misrecognition’, namely ‘the fact of recognizing a violence which is wielded precisely inasmuch as one does not perceive it as such’. Stoler, ‘Colonial Aphasia’ (n 64) 123, 141; and Pierre Bourdieu and Loïc Wacquant, ‘Symbolic Violence’, in Nancy Scheper-Hughes and Philippe Bourgois (eds), *Violence in War and Peace: An Anthology* (Malden, MA: Blackwell, 2006), 272 (hereafter Bourdieu and Wacquant, ‘Symbolic Violence’). [↑](#footnote-ref-83)
84. Stoler, ‘Colonial Aphasia’, 125. [↑](#footnote-ref-84)
85. Ibid, 144. See also Robert Aldrich, ‘Colonial Past, Post-colonial Present: History Wars French-style’, *History Australia* 3 (2006), 14.1-14.10. [↑](#footnote-ref-85)
86. Howe, ‘Colonising and Exterminating? (n 69)’; and Huw Bennet, ‘Soldiers in the Court Room: The British Army’s Part in the Kenya Emergency under the Legal Spotlight’, *The Journal of Imperial and Commonwealth History* 39/5 (2011), 727. As to whether we can refer to a post-imperial present see Hardt and Negri, *Empire* (n 38)*.*  [↑](#footnote-ref-86)
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113. Bailkin, ‘The Boot and the Spleen’ (n 98) 467. [↑](#footnote-ref-113)
114. Peter Iadicola, ‘The Violence of Empire’, *International Journal of Contemporary Sociology* 46/2 (2009), 190 (hereafter Iadicola, ‘The Violence of Empire’). [↑](#footnote-ref-114)
115. David Riches, ‘The Phenomenon of Violence’, in David Riches (ed.), *The Anthropology of Violence* (Oxford: Basil Blackwell 1986), 8 (hereafter Riches, ‘The Phenomenon of Violence’). [↑](#footnote-ref-115)
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117. Ibid. Structural violence, which is constant as opposed to episodic, includes the uneven distribution of resources, education, or medical services as well as the power to decide their distribution (see n. 121). Symbolic violence, as Pierre Bourdieu and Loïc Wacquant argue, is ‘the *violence which is exercised upon a social agent with his or her complicity’* but that they do not recognise as such(emphasis in original). Bourdieu and Wacquant, ‘Symbolic Violence’, 272 (n 83); see also Pierre Bourdieu, ‘Gender and Symbolic Violence’, in Nancy Scheper-Hughes and Philippe Bourgois (eds), *Violence in War and Peace: An Anthology* (Malden, MA: Blackwell, 2006),339-42. [↑](#footnote-ref-117)
118. Ibid*,* 9. [↑](#footnote-ref-118)
119. Riches, ‘The Phenomenon of Violence’ (n 114) 32. Colonial states were particularly skilled at re-framing the violation of colonialism in humanitarian terms—as, to borrow from Ishita Pande, ‘ameliorative action’. Pande, ‘Phulmoni’s Body’ (n 99) 10. [↑](#footnote-ref-119)
120. John Galtung, ‘Violence, Peace, and Peace Research’, *Journal of Peace Research* 6/3 (1969), 168 (hereafter Galtung, ‘Violence’). See also Akhil Gupta, *Red Tape: Bureaucracy, Structural Violence, and Poverty in India* (Duke University Press: Durham and London 2012)*,* 20 (hereafter Gupta, *Red Tape*); Paul Farmer, *Pathologies of Power: Health, Human Rights, and the New War on the Poor* (Berkeley: University of California Press 2005); and Paul Farmer, ‘On Suffering and Structural Violence: A View from Below’, in Nancy Scheper-Hughes and Philippe Bourgois (eds), *Violence in War and Peace: An Anthology* (Malden, MA: Blackwell, 2006), 281-89. [↑](#footnote-ref-120)
121. Ibid, 169. [↑](#footnote-ref-121)
122. Ibid, 171; and Gupta, *Red Tape* (n 119)138. Gupta gives, as a shocking example of such ‘malign neglect’, the fact that more people die in India each year from structural violence wrought by the Indian state’s failure to provide sufficient food, clean water, medicine, and housing than if there had been a major famine every decade, leading to a ‘missing’ population of what he estimates as 140 million people. But in addition to a failure to meet peoples’ bodily needs, the exclusion of particular groups from forms of recognition such as rights to education, equality before the law, and citizenship rights, all of which is justified on the grounds of moral worth, is also a form of structural violence, although it is so ‘taken for granted in the routinized practices of state institutions . . . that it disappears from view and cannot be thematized as violence at all’. Gupta, *Red Tape* (n 119)5, 20-21, 138; and Hughes and Bourgeois, ‘Introduction’ (n 70) 4. See also Michael Mann, ‘The Autonomous Power of the State: Its Origins, Mechanisms, and Results’, *Archives européenes de sociologie* 25 (1984), 185-213; Michael Taussig, ‘Terror as Usual: Walter Benjamin’s Theory of History as State of Siege’, in Nancy Scheper-Hughes and Philippe Bourgois (eds),*Violence in War and Peace: An Anthology* (Malden, MA: Blackwell, 2006), 269-74 (hereafter Taussig, ‘Terror as Usual’); and Das, *Life and Words* (n 106). [↑](#footnote-ref-122)
123. Riches, ‘The Phenomenon of Violence’ (n 144) 32; and Iadicola, ‘The Violence of Empire’ (n 113) 192. It is important not to neglect, furthermore, the impact of psychological violence, which Galtung describes as ‘violence that works on the soul . . .’ Galtung, ‘Violence’ (n 119) 169. [↑](#footnote-ref-123)
124. Samaddar, ‘Colonial State, Terror and Law’ (n 57), 51. [↑](#footnote-ref-124)
125. Harald Fischer-Tiné and Christine Whyte, ‘Introduction: Empires and Emotions’, in Harald Fischer-Tiné (ed.), *Anxieties, Fear and Panic in Colonial Settings: Empires on the Verge of a Nervous Breakdown* (Basingstoke: Palgrave 2017), 12. [↑](#footnote-ref-125)
126. See Gayatri Chakravorty Spivak’s revised version of her pivotal essay ‘Can the Subaltern Speak?’in Rosalind Morris (ed.), *Can the Subaltern Speak?: Reflections on the History of an Idea* (New York: Columbia University Press 2010), 21-78; and Rajeswari Sunder Rajan’s ‘Death and the Subaltern’, in Morris, *Can the Subaltern Speak,* 117-38, for ways in which subaltern can speak but not be heard. [↑](#footnote-ref-126)
127. As Kim Wagner argues in response to Shahid Amin’s claim that examining the testimony of legal approvers is a means of listening to the voices of peasants caught in the colonial judicial system, subjecting such testimony to a discursive analysis is to reduce ‘[t]he conversation between colonizer and colonized . . . to a dialogue between the ventriloquist and his dummy . . .’. Shahid Amin, ‘Approver’s Testimony, Judicial Discourse: The Case of Chauri Chaura’, in *Subaltern Studies* V (Delhi: Oxford University Press India 1987), 168, cited in Kim Wagner, ‘”In Unrestrained Conversation”: Approvers and the Colonial Ethnography of Crime in Nineteenth-century India’, in Kim A. Wagner and Ricardo Roque (eds), *Engaging Colonial Knowledge: Reading European Archives in World History* (Basingstoke: Palgrave 2011), 156. [↑](#footnote-ref-127)
128. Sarah Ahmed, ‘The Contingency of Pain’, *parallax* 8/1 (2002), 21 (hereafter Ahmed, ‘The Contingency of Pain’). See also Elaine Scarry, *The Body in Pain: The Making and Unmaking of the World* (New York and Oxford: Oxford University Press 1985), 28 (hereafter Scarry, *The Body in Pain*); Veena Das, ‘Language and Body: Transactions in the Construction of Pain’, in Arthur Kleinman, Veena Das, and Margaret Lock (eds), *Social Suffering* (Berkeley: University of California Press 1997), 67-98 (hereafter Das, ‘Language and Body’); and Drew Leder, *The Absent Body* (Chicago: University of Chicago Press 1990), 11 (hereafter Leder, *The Absent Body*). [↑](#footnote-ref-128)
129. David B. Morris, ‘The Languages of Pain’, in Robert Kaplan (ed), *Exploring the Concept of Mind* (Iowa City: University of Iowa Press 1986), 93 (hereafter Morris, ‘The Languages of Pain’). [↑](#footnote-ref-129)
130. Ibid, 25; and Klarer, ‘Humanitarian Pornography’ (n 103) 559. As J. M. Coetzee puts it, ‘Pain is truth; all else is subject to doubt’. For Saidiya Hartman pain also gives humanity a common language while extending such humanity to those who are dispossessed. J. M. Coetzee, *Waiting for the Barbarians* (2nd edn, Harmondsworth: Penguin, 1982), 5 (hereafter Coetzee, *Waiting for the Barbarians*); and Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York and Oxford: Oxford University Press 1997), 18. [↑](#footnote-ref-130)
131. Scarry, *The Body in Pain* (n 127) 4; and Morris, ‘The Languages of Pain’ (n 128) 90. [↑](#footnote-ref-131)
132. Joanna Bourke, ‘Introduction’ (*Pain and its Meanings,* 10 December 2012) <<http://www.bbk.ac.uk/history/our-research/birkbeckpainproject/Pain%20and%20its%20Meanings%20v3.pdf>> accessed 14 May 2018. See also Leder, *The Absent Body* (n 127)21. [↑](#footnote-ref-132)
133. Scarry, *The Body in Pain* (n 127)29. What makes torture ‘world-destroying’, as Darius Rejali asserts, is not simply that torture drives victims into ‘prelinguistic silence’, but that such silence gives states the power to shape the ways in which both the tortured and the communities or societies to which they belong interpret and articulate their own reality. However, Rejali also argues that psychological techniques can be as effective as physical ones in such a process of unworlding, and that for some individuals pain can strengthen rather than undermine their sense of self. Rejali, *Torture and Democracy* (n 36) 441-42. See also Allen Feldman, *Formations of Violence* (Chicago: Chicago University Press 1991); and Veena Das, ‘Language and Body’ (n 127). [↑](#footnote-ref-133)
134. Ibid. [↑](#footnote-ref-134)
135. Ibid, 23, 38. Drew Leder observes that the painful body is often experienced as something alien to the self; the sense of the body as alien can, furthermore, swell ‘until it can threaten the entirety of one’s world’. But as many critics have observed, not all forms of pain (such as tattooing, piercing, or sadomasochism) result in such subjectivity-destroying unmaking. What makes the difference, for example, between torture as an act of violation versus a service that people will pay for, according to David Canter, is the different relationships that people have to their bodies. Leder, *The Absent Body* (n 127) 83; and David Canter, ‘The Violated Body’, in Sean T. Sweeney and Ian Hodder (eds), *The Body* (Cambridge: Cambridge University Press 2002), 61. See also Wendy Lee, ‘On the (Im)materiality of Violence: Subjects, Bodies, and the Experience of Pain’,*Feminist Theory* 6/3 (2005), 277-95. [↑](#footnote-ref-135)
136. Esmeir, *Juridical Humanity* (n 36) 119. [↑](#footnote-ref-136)
137. Scarry, *The Body in Pain* (n 127) 12. On the ways in which language can erase violence see also Carol Cohn, ‘Sex and Death in the Rational World of Defense Intellectuals’,in Nancy Scheper-Hughes and Philippe Bourgois (eds), *Violence in War and Peace: An Anthology* (Malden, MA: Blackwell 2006), 354-61. [↑](#footnote-ref-137)
138. Wendy Brown, *States of Injury: Power and Freedom in Late Modernity* (Princeton: Princeton University Press, 1995). [↑](#footnote-ref-138)
139. Coetzee, *Waiting for the Barbarians* (n 129) 23; and Ahmed, ‘The Contingency of Pain’ (n 127) 26. This is not to suggest that all pain can or must be shared. As Veena Das reveals in the case of women who witnessed the violence unleashed by male family members during the partition of India, instead of disclosing or sharing their pain they have, instead, learned to hold it inside in order to enable their lives to continue, which she regards as a movement that renders passivity a form of agency. Breaking such silence, Das suggests, can thus be another form of violence. Veena Das, ‘Language and Body’ (n 127) 85, 88. [↑](#footnote-ref-139)
140. Dhillon, *Defenders of the Establishment* (n 55) 20. For former Indian police officer Edmund Cox the Police department in India was no less than ‘the very essence of our administration’, since in addition to being the visible representative of the government there was ‘no other which so much concern[ed] the life of the people’ or ‘upon whose goodwill and uprightness [their] happiness so greatly depend[ed’. Sir Edmund Cox, *Police and Crime in India* (first published in 1910, New Delhi: Manu Publications 1976), 7. [↑](#footnote-ref-140)
141. As Markus Dubber and Mariana Valverde note, police power has attracted considerably less attention than, for example, emergency powers, and not just in the case of colonial policing. Markus D. Dubber and Mariana Valverde, ‘Introduction: Policing the Rechtsstaat’, in Markus D. and Mariana Valverde (eds), *Police and the Liberal State* (Stanford, CA: Stanford University Press, 2008), 1. For scholarship on colonial policing see, for example, Charles Jeffries, *The Colonial Police* (London: Max Parrish 1952); Thomas Dunlay, *Wolves for the Blue Soldiers: Indian Scouts and Auxiliaries with the United States Army 1860-1890* (Lincoln: University of Nebraska Press 1982); Arnold, *Police Power and Colonial Rule: Madras, 1859-1947* (Delhi: Oxford University Press 1986) (hereafter Arnold, *Police Power*); Richard Hill, *Policing the Colonial Frontier: The Theory and Practice of Coercive Social and Racial Control in New Zealand, 1767-1867* (Wellington: V.R. Ward 1986); Mike Brogden, ‘The Emergence of the Police—The Colonial Dimension’, *British Journal of Criminology* 27/1 (1987), 4-14; Marie Fels, *Good Men and True: The Aboriginal Police of the Port Phillip District 1847-1853* (Melbourne: Melbourne University Press 1988); Anthony Clayton and David Killingray, *Khaki and Blue: Military and Police in British Colonial Africa* (Athens, Ohio: Ohio University Monographs in International Studies 1989); David M. Anderson and David Killingray, *Policing the Empire: Government, Authority, and Control, 1830-1940* (Manchester and New York: Manchester University Press 1991) (hereafter Anderson and Killingray, *Policing the Empire*); Philip Terdoo Ahire, *Imperial Policing: The Emergence and Role of the Police in Colonial Nigeria 1860-1960* (Milton Keynes and Philadelphia: Open University Press 1991); Georgina Sinclair, *At the End of the Line: Colonial Policing and the Imperial Endgame 1945-80* (Manchester and New York: Manchester University Press 2006) (hereafter Sinclair, *At the End of the Line*); and Thomas, *Violence and Colonial Order* (n 95). [↑](#footnote-ref-141)
142. Notable examples include T. C. Arthur, *Reminiscences of an Indian Police Official* (London: Sampson, Low, Marston & Company 1894); Cox, *Police and Crime* (n 139); C. E. Gouldsbury, *Life in the Indian Police* (first published in 1912, New Delhi: Manu Publications 1977); J. C. Curry, *The Indian Police* (London: Faber and Faber 1932) (hereafter Curry, *The Indian Police*); S. T. Hollins, *No Ten Commandments: Life in the Indian Police* (Hutchinson: London 1954); B. N. Lahiri, *Leaves from A Policeman’s Diary* (Meerut: Meenakshi Prakashan 1967); Sir Percival Griffiths, *To Guard My People: The History of the Indian Police* (London: Ernest Benn Limited); B. N. Lahiri, *Before and After* (Allahabad: Chugh Publications 1974); Trilok Nath, *Forty Years of Indian Police* (New Delhi: Concept Publishing Company, 1981); and Eric Stracey, *Odd Man In: My Years in the Indian Police*(New Delhi: Vikas Publishing House Pvt Ltd., 1981). [↑](#footnote-ref-142)
143. See N. Majumdar, *Justice and Police in Bengal 1765-1793: A Study of the Nizamat in Decline* (Calcutta: Firma K. L. Mukhopadhyay 1960);Anandswarup Gupta, *Crime and Police in India [Upto 1861]* (Agra: Sahitya Bhawan,1974); Anandswarup Gupta, *The Police in British India 1861-1947* (New Delhi: Concept Publishing Company 1979);J. C. Madan, *Indian Police: Its Development up to 1905 an Historical Analysis* (New Delhi: Uppal Publishing House 1980); S. R. Kapse, *Police Administration in Bombay, 1600-1865* (Bombay: Himalaya Publishing House 1987);and Saroj Kumar Bhowmik, *Rural Police, Local Justice in Bengal (1772-1870)* (Calcutta: Nalanda Publications 1991). [↑](#footnote-ref-143)
144. Arnold, *Police Power* (n 140); Ranjan Chakrabarti, ‘Pax Britannica and the Nature of Police Control in Bengal c. 1800-1860’, *Bengal Past and Present* 105/1-2 (1986), 78-99 (hereafter Chakrabarti, ‘Pax Britannica’); Peter Robb, ‘The Ordering of Rural India: The Policing of Nineteenth-Century Bengal and Bihar’, in Anderson and Killingray, *Policing the Empire* (n 140) 126-50 (hereafter Robb, ‘The Ordering’); Dhillon, *Defenders of the Establishment* (n 55); Michael Silvestri, ‘”The Dirty Work of Empire”: Policing, Political Violence and Public Order in Colonial Bengal, 1905-1947” (PhD Diss., Columbia University 1998) (hereafter Silvestri, ‘”The Dirty Work”’); Clea T. Finkle, ‘State, Power, and Police in Colonial North India’ (PhD. Diss., University of Washington 1999) (hereafter Finkle, ‘State, Power, and Police’); Arvind Verma, ‘Consolidation of the Raj: Notes from a Police Station in British India, 1865-1928’, *Criminal Justice History* 17 (2002), 109-32; Arnaud Sauli, ‘Circulation and Authority: Police, Public Space and Territorial Control in Punjab, 1861-1920’, in Claude Markovits, Jacques Pouchepadass, and Sanjay Subrahmanyam (eds), *Society and Circulation: Mobile People and Itinerant Cultures in South Asia, 1750-1950* (Delhi: Permanent Black 2003), 215-74; and T. K. Vinod Kumar and Arvind Verma, ‘Hegemony, Discipline and Control in the Administration of Police in Colonial India’, *Asian Criminology* 4 (2009), 61-78 (hereafter Kumar and Verma, ‘Hegemony, Discipline and Control’). [↑](#footnote-ref-144)
145. David Arnold, ‘Police Power and the Demise of British Rule in India, 1930-47’,in David M. Anderson and David Killingray (eds), *Policing and Decolonisation: Politics, Nationalism and the Police 1917-65* (Manchester and New York: Manchester University Press 1992), 42-61; Sinclair, *At the End of the Line* (n 140)*;* and Mahmood Farooqui, ‘The Police in Delhi in 1857’,in Crispin Bates (ed.), *Mutiny at the Margins: New Perspectives on the Indian Uprising of 1857,* Vol. 1: *Anticipations and Experiences in the Locality* (New Dehi: Sage Publications 2013), 98-119. [↑](#footnote-ref-145)
146. David A. Campion, ‘Watchmen of the Raj: The United Provinces Police, 1870-1931 and the Dilemmas of Colonial Policing in British India’ (PhD Diss., University of Virginia 2002) (hereafter Campion, ‘Watchmen of the Raj’); David A. Campion, ‘Authority, Accountability and Representation: The United Provinces Police and the Dilemmas of the Colonial Policeman in British India, 1902-39’, *Historical Research* 76/192 (2003), 217-37; and Gagan Preet Singh, ‘Property’s Guardians, People’s Terror: Police Avoidance in Colonial North India’, *Radical History Review* 137 (2020), 54-74. [↑](#footnote-ref-146)
147. Dhillon, *Defenders of the Establishment* (n 55)*,* 20. The police also played an important subjugating role prior to 1857, but as I shall demonstrate police violence became more systematized after the 1857 Revolt. [↑](#footnote-ref-147)
148. Rajnarayan Chandavarkar, *Imperial Power and Popular Politics: Class, Resistance and the State in India, 1850-1950* (Cambridge: Cambridge University Press, 1998) (hereafter Chandavarkar, *Imperial Power*); Nandini Gooptu, *The Politics of the Urban Poor in Early Twentieth-Century India* (Cambridge: Cambridge University Press 2001) (hereafter Gooptu, *The Politics of the Urban Poor*); Prashant Kidambi, ‘”The ultimate masters of the city”: Police, Public Order and the Poor in Colonial Bombay, c. 1893-1914’, *Crime, Histoire & Societies* 8/1 (2004) [DOI: <https://doi.org/10.4000/chs.513>] (hereafter Kidambi, ‘”The ultimate masters’”); Radha Kumar, ‘Police Matters’ (n 61); and Radha Kumar, ‘Policing Everyday Life: The FIR in the Tamil Countryside, c. 1900-50’, *The Indian Economic and Social History Review* 54/3 (2017), 361-87 (hereafter Kumar, ‘Policing Everyday Life’). [↑](#footnote-ref-148)
149. Douglas Peers, ‘Torture, the Police, and the Colonial State in the Madras Presidency,

1816-55’, *Criminal Justice History: An International Annual* 12 (1991), 29-56; Rao, ‘Problems of Violence’ (n 100); and Kumar, ‘Seeing Like a Policeman’ (n 95). For an overview of such work see Gagan Preet Singh, ‘Police-public Relations in Colonial India’ (*History Compass,* 1 September 2019) [DOI: <https://doi.org/10.1111/hic3.12595>]. [↑](#footnote-ref-149)
150. For scholarship that does not see Heath, ‘Bureaucracy, Power and Violence’ (n 88); Heath, ‘Torture, the State and Sexual Violence’ (n 99); and Heath, ‘The Tortured Body’ (n 100). [↑](#footnote-ref-150)
151. Ann Laura Stoler, ‘Colonial Archives and the Arts of Governance’, *Archival Science* 2 (2002), 100. While reading against the archival grain evades the power that shaped the production of the archive (including, for example, the destruction of records, or the fragmentary nature of the archive), reading along it, Stoler argues, makes it possible to ‘distinguish between what was “unwritten” because it could go without saying and “everyone knew it”, what was unwritten because it could not yet be articulated, and what was unwritten because it could not be said’. Stoler, ‘Colonial Archives’, 101; and Ann Laura Stoler, *Along the Archival Grain* (n 78) 3. See also Michel Foucault, *The Archaeology of Knowledge and the Discourse on Language* (A. M. Sheridan Smith tr, New York: Pantheon Books 1972), 129-30. [↑](#footnote-ref-151)
152. Beatrice Jauregui, *Provisional Authority: Police, Order, and Security in India* (Ranikhet: Permanent Black, 2016), 12 (hereafter Jauregui, *Provisional Authority*). Prashant Kidambi’s suggestion of a shift, two decades ago, from viewing the colonial Indian police as a coercive instrument of colonial control that was external to society to regarding them as too weak to assume such a role (although a focus on coercion has again been at the forefront of more recent scholarship) may in part explain such a lacuna. Kidambi, ‘”The ultimate masters of the city’” (n 147) para 2. The classic study on the coercive nature of the police in colonial India is Arnold, *Police Power* (n 140)*;* on their purported weakness see Anand Yang, ‘Introduction’, in Anand Yang (ed.), *Crime and Criminality in British India* (Tucson, AZ: University of Arizona Press 1986), 1-25; Chandarvarker, *Imperial Power* (n 147); Gooptu, *The Politics of the Urban Poor* (n 147); and Campion, ‘Watchmen of the Raj’ (n 145). See also Egon Bittner, *The Functions of the Police in Modern Society* (Bethesda, MD: National Institute of Mental Health, Center for Studies of Crime and Delinquency 1970); Shailendra Misra, *Police Brutality: An Analysis of Police Behaviour* (New Delhi: Vikas Publishing House Pvt. Ltd. 1986); Egon Bittner, *Aspects of Police Work* (Boston: Northeastern University Press 1990); Huggins, Haritos-Fatouros, and Zimbardo, *Violence Workers* (n 54)*;* Beatrice Jauregui, ‘Law and Order: Police Encounter Killings and Routinized Political Violence’, in Isaelle Clark-Decès (ed.), *A Companion to the Anthropology of India* (Oxford: Wiley-Blackwell, 2010), 371-88; Lokaneeta, *Transnational Torture* (n 36); Beatrice Jauregui, ‘Just War: The Metaphysics of Police Vigilantism in India’, *Conflict and Society* 1/1 (2015), 41-59; Beatrice Jauregui, *Provisional Authority* (n 151); Lokaneeta, *The Truth Machines* (n 51)*;* Wahl, *Just Violence* (n 51); and Khanikar, *State, Violence and Legitimacy* (n 59)*.* [↑](#footnote-ref-152)
153. Ibid. See, for example, Benjamin, ‘Critique of Violence’ (n 53); Hannah Arendt, *The Origins of Totalitarianism* (New York: Schoken 1951); Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press 1998); and Jacques Derrida, ‘Force of Law: The “Mystical Foundations of Authority”’, in Drucilla Cornell, Michael Rosenfeld, and David Gray Carlson (eds), *Deconstruction and the Possibility of Justice*, (New York: Routledge 1992), 3-67. [↑](#footnote-ref-153)
154. Lokaneeta, *Truth Machines* (n 51)16. See also Max Weber, ‘Bureaucracy’, in Guenther Roth and Claus Wittich (eds), *Economy and Society: An Outline of Interpretive Sociology*, Vol. 1 (first published in 1921, New York: Bedminster Press 1968), 956-58 ; and Max Weber, ‘The Economic System and the Normative Orders’, in Max Rheinstein (ed.), *Max Weber on Law, Economy and Society* (first published in 1922, Max Rheinstein and Edward A. Shils tr, Cambridge, MA: Harvard University Press, 1954), 10-40. [↑](#footnote-ref-154)
155. The same is true, however, of the post-colonial state. The scholars who do explore the relationship between violence, policing, and the state—individuals such as K. G. Kannabrian, Kandalla Balagopal, and Ujjwal Singh, are also all, notably, civil liberties and democratic rights activists. Lokaneeta, *The Truth Machines* (n 51) 11-12. See also K. G. Kannabiran, *The Wages of Impunity: Power, Justice, and Human Rights* (New Delhi: Orient Longman 2003); K. Balagopal, ‘Deaths in Police Custody: Whom and Why Do the Police Kill?’, *Economic and Political Weekly* (22 November 1986), 2028-29 (hereafter Balagopal, ‘Deaths in Police Custody’); and Ujjwal Kumar Singh, *State, Democracy, and Anti-Terror Laws in India* (New Delhi: Sage 2007). Lokaneeta also delineates four other bodies of scholarship that examine the nature of state violence, of which police violence is situated as an aspect: testimonial narratives by those who have been the victims of state violence; empirical work on sites of state violence; works on impunity for those who commit violence; and scholarship on policing in contemporary India. Lokaneeta, *The Truth Machines,* 14-15. [↑](#footnote-ref-155)
156. Arnold, *Police Power* (n 14)*;* Lata Singh, ‘Locating the Bihar Constabulary, 1920-22: An Exploration into the Margins of Resistance’, *Social Scientist* 30/9/10 (2002), 47-71 (hereafter Singh, ‘Locating the Bihar Constabulary’); William Gould, ‘The Dual State: The Unruly “Subordinate”, Caste, Community and Civil Service Recruitment in North India, 1930-1955’, *Journal of Historical Sociology* 20/1/2 (2007), 13-43 (hereafter Gould, ‘The Dual State’); Bhavani Raman, ‘The Familial World of the Company’s *Kacceri* in Early Colonial Madras’, *Journal of Colonialism and Colonial History* 9/2 (2008) [DOI: 10.1343/cch.0.0011]; Anastasia Piliavsky, ‘The Moghia Menace, or the Watch Over Watchmen In British India’, *Modern Asian Studies* 47/3 (2013), 751-79 (hereafter Piliavsky, ‘The Moghia Menace’); Partha Pratim Shil, ‘Police Labour and State-Formation in Bengal, c. 1860-c.1950’ (PhD. Diss., University of Cambridge 2016); and Partha Pratim Shil, ‘The “Threatened” Constabulary Strikes of Early Twentieth-Century Bengal’, *South Asian Studies* 33/2 (2017), 165-79. [↑](#footnote-ref-156)
157. Kumar and Verma, ‘Hegemony, Discipline and Control’ (n 143) 65. For the ways in which policing groups were co-opted into serving the colonial regime see Finkle, ‘State, Power and Police’ (n 143). For analyses of how individuals become violence workers and the effects that it has on them see, for example, Christopher Browning, *Ordinary Men: Reserve Police Battalion 101 and the Final Solution in Poland* (New York: Harper Collins 1992); Daniel Goldhagen, *Hitler’s Willing Executioners: Ordinary Germans and the Holocaust* (New York: Alfred A. Knopf 1996); and Huggins, Haritos-Fatouros and Zambardo, *Violence Workers* (n 54)*.* [↑](#footnote-ref-157)
158. Jauregui, *Provisional Authority* (n 151)12. Martin Thomas, however, makes the compelling argument that there is a direct link between the nature and scale of police oppression and the economic structures of colonies. Thomas, *Violence and Colonial Order* (n 95)2-5. For work on discipline, governmentality, policing, and coercion see Jean Comaroff and John L. Comaroff, ‘Criminal Obsessions, after Foucault: Postcoloniality, Policing, and the Metaphysics of Disorder’, in Jean and John L. Comaroff, *Law and Disorder in the Postcolony* (Chicago: University of Chicago Press 2008), 273-98 (hereafter Comaroff and Comaroff, ‘Criminal Obsessions); and Fassin, ‘Petty States of Exception’ (n 61). For scholarship on sovereignty, policing, and coercion see Veena Das and Deborah Poole, ‘State and its Margins: Comparative Ethnographies’, in Veena Das and Deborah Poole, *Anthropology in the Margins of the State* (Santa Fe: School of American Research Press; Oxford: James Currey 2004), 3-33 (hereafter Das and Poole, ‘State and its Margins’); Thomas Blom Hansen and Finn Stepputat (eds), *Sovereign Bodies: Citizens, Migrants, and States in the Postcolonial World*(Princeton and Oxford: Princeton University Press 2005); and Thomas Blom Hansen and Finn Stepputat, ‘Sovereignty Revisited’, *Annual Review of Anthropology* 35 (2006), 295-315. For an argument that examines the interrelationships between policing, governmentality, and sovereignty see also Marianna Valverde, ‘Police, Sovereignty, and Law: Foucaultian Reflections’, in Markus D. Dubber and Mariana Valverde (eds), *Police and the Liberal State* (Stanford, CA: Stanford University Press 2008), 15-32. [↑](#footnote-ref-158)
159. Jonathan Saha, *Law, Disorder and the Colonial State: Corruption in Burma c. 1900* (Basingstoke: Palgrave Macmillan 2013), 53 (hereafter Saha, *Law, Disorder and the Colonial State*). See also Kumar, ‘Seeing Like a Policeman’ (n 95). According to Clea Finkle, in her superb dissertation on policing and state power in colonial north India, the Indian police began to assume a disciplinary function from 1830 (in part as a result of the transformation of the East India Company’s charter from a trading concern to a solely administrative one, and in part the ‘improving’ drive of the Utilitarian and Evangelical movements), as is apparent in the changing nature of police reports. Although these had previously contained obligatory descriptions of major crimes and tables on convictions and punishments they began ‘to encompass a much greater sweep of “the social” and a greater interest in rendering its everyday practices into the language of law and order’. Finkle, ‘State, Power and Police’ (n 143) 79. See also Eric Stokes, *The English Utilitarians and India* (New York: Oxford University Press 1959). [↑](#footnote-ref-159)
160. David M. Anderson and David Killingray, ‘Consent, Coercion and Colonial Control: Policing the Empire, 1830-1940’, in Anderson and Killingray, *Policing the Empire* (n 140) 4. See also Clive Emsley, ‘Policing the Empire/Policing the Metropole: Some Thoughts on Models and Types’, *Crime, History & Societies* 18/2 (2014), 5-25. [↑](#footnote-ref-160)
161. Dhillon, *Defenders of the Establishment* (n 55)18; and Baxi, *The Crisis* (n 61)106. The extent to which the Indian police was militarized varied from province to province, although its militarization was nowhere more apparent than on India’s frontiers. Such a model of policing, as Upendra Baxi argues, is an impersonal and alienating one, in which stress is laid on obedience, procedure, the stifling of innovation, and disregard for the interests of the public. Baxi, *The Crisis* (n 61) 107-8. See also Rajnarayan Chandarvarkar, ‘Customs of Governance: Colonialism and Democracy in Twentieth Century India’,*Modern Asian Studies* 41/3 (2007), 450 (hereafter Chandarvarkar, ‘Customs of Governance’); Kolsky, ‘The Colonial Rule of Law’ (n 62); Condos, ‘License to Kill’ (n 94); and Dilip K. Das and Arvind Verma, ‘The Armed Police in the British Colonial Tradition—The Indian Perspective’, *Policing: An International Journal of Police Strategies & Management* 21/2 (1998), 354-67. [↑](#footnote-ref-161)
162. Michel Foucault, *Discipline and Punish: The Birth of the Prison* (Alan Sheridan tr, London: Penguin 1977). Colonial states, like all states, were dependent on surveillance and discipline in addition to violence and coercion; what differentiates the former from the latter is the predominance of violence and coercion over surveillance and discipline. John Comaroff, ‘Governmentality, Materiality, Legality’,in Jan-Georg Deutsch, Peter Probst, and Heike Schmidt (eds), *African Modernities: Entangled Meanings in Current Debate* (Oxford: James Currey 2002), 123 (hereafter Comaroff, ‘Governmentality, Materiality, Legality’). [↑](#footnote-ref-162)
163. Comaroff and Comaroff, ‘Criminal Obsessions’ (n 157) 280. [↑](#footnote-ref-163)
164. Philip Abrams, ‘Notes on the Difficulty of Studying the State’, *Journal of Historical Sociology* 1/1 (1988), 58-89. [↑](#footnote-ref-164)
165. Timothy Michell, ‘The Limits of the State: Beyond Statist Approaches and Their Critics’, *American Political Science Review* 85/1 (1991), 77-96; and Timothy Mitchell, ‘Society, Economy, and the State Effect’, in Aradhana Sharma and Akhil Gupta, *Anthropology of the State: A Reader* (Oxford: Blackwell 2006), 169-86. For Foucault, the state was ‘maybe . . . only a composite reality and a mythicized abstraction whose importance is much less than we think’. Michel Foucault, *Security, Territory, Population: Lectures at the College de France 1977-78*, Michel Snellart (ed.) (Graham Burchell tr, New York: Palgrave Macmillan, 2007), 109. [↑](#footnote-ref-165)
166. Comaroff, **‘**Governmentality, Materiality, Legality’ (n 161) 121. Akhil Gupta goes so far as to suggest that any attempt to understand the state will inevitably produce ‘misrecognition’, since observing the state through a particular bureaucracy, level, or region produces only a partial understanding of it. Gupta, *Red Tape* (n 119) 53. [↑](#footnote-ref-166)
167. In the Indian case the scholarship that examines the state in such terms focuses primarily on the post-colonial era. See, for example, Akhil Gupta, ‘Blurred Boundaries: The Discourse of Corruption, the Culture of Politics and the Imagined State’, *American Ethnologist* 22/2, (1995), 375-402 (hereafter Gupta, ‘Blurred Boundaries’); C. J. Fuller and Véronique Bénéï (eds) *The Everyday State and Society in Modern India* (London: Hurst 2001); Thomas Blum Hansen and Finn Stepputat (eds), *States of Imagination: Ethnographic Explorations of the Postcolonial State* (Durham, NC: Duke University Press 2001); Stuart Corbridge, Glyn Williams, Manoj Kumar Srivastava, and René Véron (eds), *Seeing the State: Governance and Governmentality in India* (Cambridge: Cambridge University Press 2005); Lloyd. I. Rudolph and John Kurt Jacobsen (eds), *Experiencing the State* (Delhi: Oxford University Press 2006); and Taylor C. Sherman, William Gould, and Sarah Ansari (eds), ‘Special Issue: Society and the Everyday State in India and Pakistan’, *Modern Asian Studies* 45/1 (2011). On the ‘fuzzy’ state see Gould, ‘The Dual State’ (n 155) 14. [↑](#footnote-ref-167)
168. Saha, *Law, Disorder and the Colonial State* (n 158) 7. The scholarship on the colonial administrative service, for example, concentrates almost entirely on its higher echelons. See

B. B. Misra, *The Bureaucracy in India: An Historical Analysis of Development up to 1947* (Delhi: Oxford University Press 1977); Clive Dewey, *Anglo-Indian Attitudes: The Mind of the Indian Civil Service* (London: Bloomsbury 1993); and David C. Potter, *India’s Political Administrators: From ICS to IAS* (Delhi: Oxford University Press 1996). For scholarship that does examine the role of Indian subordinates in the construction of the colonial state see Robert Eric Frykenberg, *Guntur District, 1788-1848: A History of Local Inﬂuence and Central Authority in South India* (New York: Oxford University Press 1965); David Arnold, ‘Bureaucratic Recruitment and Subordination in Colonial India: The Madras Constabulary, 1859-1947’, in Ranajit Guha (ed.), *Subaltern Studies IV: Writings on South Asian History and Society* (Delhi: Oxford University Press 1985), 1-53 (hereafter Arnold, ‘Bureaucratic Recruitment’); Finkle, ‘State, Power and Police’ (n 143); Chandavarkar, *Imperial Power* (n 147); Gould, ‘The Dual State’ (n 155); William Gould, *Bureaucracy, Community and Influence in India: Society and the State,1930s-1960s* (Abingdon, Oxon: Routledge 2011); Bhavani Raman, *Document Raj: Writing and Scribes in Early Colonial South India* (Chicago: University of Chicago Press, 2012); and Jonathan Saha, ‘A Mockery of Justice? Colonial Law, the Everyday State, and Village Politics in the Burma Delta, c. 1890-1910’,*Past and Present* 217/1 (2012),187-212. [↑](#footnote-ref-168)
169. Ranajit Guha, *Dominance without Hegemony: History and Power in Colonial India* (Cambridge, Mass.: Harvard University Press, 1997), 65 (hereafter Guha, *Dominance without Hegemony*). [↑](#footnote-ref-169)
170. Indian police sub-inspector, quoted in Jauregui, *Provisional Authority* (n 151) 22. See also Veena Das and Deborah Poole, ‘State and its Margins’ (n 157) 13-14; and Beatrice Jauregui, ‘Civilised Coercion, Militarised Law and Order: Security in Colonial South Asia and the Blue in Green Global Order’, in Marleen Easton, Monica den Boer, Jelle Janssens, Rene Moelker, and Tom Vanderbeken (eds), *Blurring Military and Police Roles* (The Hague: Eleven International Publishing 2010), 377-78 (hereafter Jauregui, ‘Civilised Coercion’). Akhil Gupta suggests that the everyday practices of state officials may actually aid in constructing such a boundary. That the Indian police were enmeshed in local politics was so widely known that it was taken into account in their recruitment—primarily, in light of the way in which the colonial regime viewed Indian identity in communitarian terms, through privileging particular religious and caste groups. Gupta, *Red Tape* (n 119)55; and Gould, ‘The Dual State’ (n 155) 17, 21-29. [↑](#footnote-ref-170)
171. Chandavarkar, *Imperial Power* (n 147) 81; and Chandavarkar, ‘Customs of Governance’ (n 160) 451-53. [↑](#footnote-ref-171)
172. Lata Singh, ‘Locating the Bihar Constabulary’ (n 155) 62. See also Finkle, ‘State, Power and Police’ (n 143) 288. For scholarship that suggests that the police were essentially co-opted by the colonial state see David Arnold, ‘The Police and Colonial Control in South India’,*Social Scientist* 4/12 (1976), 3-16; Arnold, ‘Bureaucratic Recruitment’ (n 167); Ranajit Guha, ‘On Some Aspects of the Historiography of Colonial India’, in Ranajit Guha and Gayatri Chakravorty Spivak (eds), *Selected Subaltern Studies* (New York: Oxford University Press 1988), 35-44; and Shahid Amin, *Event, Metaphor, Memory: Chauri Chaura 1922-1992* (Delhi: Oxford University Press 1995). [↑](#footnote-ref-172)
173. Arnold, *Police Power* (n 140)63; Finkle, ‘State, Power and Police’ (n 143) 258, 281; Bhangya Bhukya, ‘”Delinquent subjects”: Dacoity and the Creation of a Surveillance Society in Hyderabad State’, *The Indian Economic and Social History Review* 44/2 (2007), 192; Piliavsky, ‘The Moghia Menace’ (n 155); and David Arnold, ‘The Poison Panics of British India’,in H. Fischer-Tiné (ed.), *Anxieties, Fear and Panic in Colonial Settings: Empires on the Verge of a Nervous Breakdown* (Basingstoke: Palgrave 2017), 64-5. [↑](#footnote-ref-173)
174. Arnold, *Police Power* (n 140)163-165; and Kumar, ‘Policing Everyday Life’ (n 147) 368. [↑](#footnote-ref-174)
175. Gooptu, *The Politics of the Urban Poor* (n 147)134. See also Saha, *Law, Disorder and the Colonial State* (n 158)5,9-10; and Bailkin, ‘The Boot and the Spleen’ (n 98). It was the fragmentary nature of the colonial state that made such free reign possible, since the fact that state institutions can act independently makes it possible for states to acquire legitimacy for particular aspects of their governance (such as, for example, maintaining ‘law and order’) *despite* police violence. See Gupta, *Red Tape* (n 119)*;* and Khanikar, *State, Violence* (n 59) 126. [↑](#footnote-ref-175)
176. Saha, *Law, Disorder and the Colonial State* (n 158) 72; and Julia Eckert, ‘The *Trimurti* of the State: State Violence and the Promises of Order and Destruction’, *Working Paper No. 80*, Max Planck Institute for Social Anthropology Working Papers, Max Planck Institute for Social Anthropology, 2005, 16. The fragmentary nature of the state, as Eckerts notes, ensures that the state ‘speaks in many voices’ in regard to violence (ibid). [↑](#footnote-ref-176)
177. Comaroff, ‘Governmentality, Materiality, Legality’ (n 161) 121; and Saha, *Law, Disorder and the Colonial State* (n 158)66. [↑](#footnote-ref-177)
178. #  Douglas Peers, ‘State, Power, and Colonialism’, in Douglas M. Peers and Nandini Gooptu (eds.), *India and the British Empire* (Oxford: Oxford University Press 2012), 30 (hereafter Peers, ‘State, Power, and Colonialism’); and James Lees, ‘A “Tranquil Spectator”: The District Official and the Practice of Local Government in Late Eighteenth-Century Bengal’, *The Journal of Imperial and Commonwealth History* 38/1 (2010), 1. See also David E. Omissi, *The Sepoy and the Raj: The Indian Army, 1860-1940* (London: Palgrave Macmillan 1994); Douglas Peers, *Between Mars and Mammon: Colonial Armies and the Garrison State in Nineteenth-Century India* (London: I. B. Taurus 1995); Seema Alavi, *The Sepoys and the Company: Tradition and Transition in Northern India 1770-1830* (Delhi: Oxford University Press 1998); Kaushik Roy,  *The Army in British India: From Colonial Warfare to Total War, 1857-1947* (London: Bloomsbury 2012); James Hevia, *The Imperial Security State: British Colonial Knowledge and Empire-Building in Asia* (Cambridge: Cambridge University Press, 2012); and Condos, *The Insecurity State* (n 38)40-55.

 [↑](#footnote-ref-178)
179. Guha, *Dominance without Hegemony* (n 168); and Peers, ‘State, Power, and Colonialism’ (n 177) 41. On the conception of the ‘limited Raj’ see Anand Yang, *The Limited Raj: Agrarian Relations in Colonial India, Saran District, 1793-1920* (Delhi: Oxford University Press 1989). [↑](#footnote-ref-179)
180. See Kim Wager, ‘Treading Upon Fires: the “Mutiny”-motif and Colonial Anxieties in British India’, *Past & Present* 218/1 (2013), 159-97; Wagner, ‘”Calculated to strike terror”’ (n 48); Wagner, *Amritsar 1919* (n 76); and Condos, *The Insecurity State* (n 38)*.* [↑](#footnote-ref-180)
181. Kumar, ‘Police Matters’ (n 61) 2; and Silvestri, ‘”The Dirty Work of Empire”’ (n 143) 3. Indian policemen—particularly Sikhs, who were regarded by the British as a ‘marital race’—played such a vital role as emissaries of law that they were recruited to develop other British colonial police forces. See Thomas Metcalf, *Imperial Connections: India in the Indian Ocean Arena, 1860-1920* (Berkeley, Los Angeles and London: University of California Press 2007), Ch. 4; and Gajendra Singh, ‘India and the Great War: Colonial Fantasies, Anxieties and Discontent’, *Studies in Ethnicity and Nationalism* 14/2 (2014), 347. [↑](#footnote-ref-181)
182. Nasser Hussain, ‘Towards a Jurisprudence of Emergency: Colonialism and the Rule of Law’, *Law and Critique* 10 (1999), 97 (hereafter Hussain, ‘Towards a Jurisprudence of Emergency’); and Hussain, *The Jurisprudence of Emergency* (n 58)3. See also Jörg Fisch, ‘The Role of International Law in the Territorial Expansion of Europe, 16th-20th Centuries’, *International Center for Comparative Law and Politics Review* 3/1 (2000), 4-13. The phrase ‘rule of law’, Hussain notes, is ‘notoriously difficult to pin down’, since in addition to referring to government by fixed rules that apply to all it also signifies ideals of justice and human dignity and ‘the victory of reason over will, the universal over the contingent and idea over matter’. Hussain, ‘Towards a Jurisprudence of Emergency’, 96-97. See also Sandra den Otter, ‘Law, Authority, and Colonial Rule’, in Douglas M. Peers and Nandini Gooptu (eds), *India and the British Empire* (Oxford: Oxford University Press 2012), 168-90. [↑](#footnote-ref-182)
183. Comaroff, ‘Governmentality, Materiality, Legality’ (n 161) 127. [↑](#footnote-ref-183)
184. Kumar, ‘Police Matters’ (n 61) 2. The plurality of law in colonial India made such coherence impossible, both in terms of its admixture of alien and indigenous law and the legal diversity *within* British colonial law (across time as well as space, such as in the differences between what were known as ‘regulation’ versus ‘non-regulation’ provinces) in regard to legislation as well as practice. See, for example, Benton, *A Search for Sovereignty* (n 58) 239-65. [↑](#footnote-ref-184)
185. Saha, ‘A Mockery of Justice’, 190; see also Comaroff, ‘Colonialism, Culture and Law’ (n 62). For scholarship on colonial India that does examine practices of law see, for example, Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (New Delhi: Oxford University Press 1998); Indrani Chatterjee, *Gender, Slavery and Law in Colonial India* (New Delhi: Oxford: Oxford University Press 1999); Mahua Sarkar, *Justice in a Gothic Edifice: The Calcutta High Court and Colonial Rule in Bengal* (Calcutta: Firma KLM Private Ltd 1997); Kolsky, *Colonial Justice* (n 75)*;* Mitra Sharafi, *Law and Identity in Colonial South Asia* (New York: Cambridge University Press 2014); Rachel Lara Sturman, *The Government of Social Life in Colonial India: Liberalism, Religious Law, and Women's Rights* (New York: Cambridge University Press 2012); and Saha, *Law, Disorder and the Colonial State* (n 158)*.* [↑](#footnote-ref-185)
186. It is for this reason, as Taylor Sherman contends, that defining colonial violence against a purportedly just ‘rule of law’ is problematic. Sherman, *State Violence* (n 88) 174. See also Austin Sarat and Thomas R. Kearns, ‘A Journey Through Forgetting: Towards a Jurisprudence of Violence’, in Austin Sarat and Thomas R. Kearns (eds), *The Fate of Law* (Ann Arbor: University of Michigan Press 1991); Austin Sarat and Thomas R. Kearns (eds), *Law’s Violence* (Ann Arbor: University of Michigan Press 1992); Austin Sarat, ‘Situating Law Between the Realities of Violence and the Claims of Justice’, in Austin Sarat (ed.), *Law, Violence, and the Possibility of Justice* (Princeton and Oxford: Princeton University Press 2001), 3-16 (hereafter Sarat, ‘Situating Law’); Austin Sarat (ed.), *Pain, Death, and the Law* (Ann Arbor: University of Michigan Press 2001); and Benjamin, ‘Critique of Violence’ (n 53). [↑](#footnote-ref-186)
187. Sarat, ‘Situating Law’ (n 187) 3. [↑](#footnote-ref-187)
188. Curry, *The Indian Police* (n 141) 9. See also Ranabir Samaddar, ‘Law and Terror in the Age of Colonial Constitution Making’, *Diogenes* 212 (2006), 52; and Michael Taussig, ‘The Injustice of Policing: Prehistory and Rectitude’, in Austin Sarat and Thomas Kearns (eds), *Justice and Injustice in Law and legal Theory* (Ann Arbor: the University of Michigan Press, 1996), 24 (hereafter Taussig, ‘The Injustice of Policing’). [↑](#footnote-ref-188)
189. As Michael Taussig suggests, theatrical performance, in which the courtroom functions as the play within the play, ‘sets the stage for the recurring drama of force and fraud at the heart of the system of justice’. Taussig, ‘The Injustice of Policing’ (n 187) 24. [↑](#footnote-ref-189)
190. Robert Carstairs, *The Little World of an Indian District Officer* (London: Macmillan and Co., 1912), 27. [↑](#footnote-ref-190)
191. The British, Rande Kostal puts it, had ‘a deeply ingrained deference to the *forms* of law’ (emphasis added). Kostal, *A Jurisprudence of Power* (n 94)7. [↑](#footnote-ref-191)
192. Benton, *A Search for Sovereignty* (n 58) 238. [↑](#footnote-ref-192)
193. Guha, *Dominance Without Hegemony* (n 168) 67. [↑](#footnote-ref-193)
194. William Rasch, ‘From Sovereign Ban to Banning Sovereignty’, in Matthew Calarco and Steven DeCaroli (eds), *Giorgio Agamben: Sovereignty and Life* (Stanford: Stanford University Press 2007), 95. [↑](#footnote-ref-194)
195. Condos, ‘License to Kill’ (n 94) 514. [↑](#footnote-ref-195)
196. Hussain, ‘Towards a Jurisprudence of Emergency’ (n 181) 101; and Benton, *A Search for Sovereignty* (n 58) 262. [↑](#footnote-ref-196)
197. Benton, *A Search for Sovereignty* (n 58) 241. For Nasser Hussain what made colonial sovereignties unique was that emergency played such a crucial role in their constitution. Hussain, *The Jurisprudence of Emergency* (n 58). [↑](#footnote-ref-197)
198. Santana Khanikar charts a similar process for post-colonial India, one in which ‘extraordinarity’ thus becomes ‘a routine practiced in an institutionalized fashion and perceived as part of the practice of policing’. Khanikar, *State, Violence* (n 59)73. [↑](#footnote-ref-198)
199. Reynolds, *Empire, Emergency* (n 15) 70. [↑](#footnote-ref-199)
200. For the role of the police in constructing the ‘ethos’ of sovereignty see William E. Connolly, ‘The Complexities of Sovereignty’, in Matthew Calarco and Stephen DeCaroli, *Giorgio Agamben: Sovereignty and Life* (Stanford: Stanford University Press 2007), 33. [↑](#footnote-ref-200)
201. Evans, ‘Where Lawlessness is Law’ (n 92) 10-11.See also Robert A. Wiliams, Jr., *The American Indian in Western Legal Thought: The Discourses of Conquest* (New York: Oxford University Press, 1990); Peter Fitzpatrick, *Modernism and the Grounds of Law* (New York: Cambridge University Press 2001); Sudipta Sen, *Distant Sovereignty: National Imperialism and the Origins of British India* (New York: Routledge 2002); and Anthony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press 2005) (hereafter Anghie, *Imperialism, Sovereignty*). [↑](#footnote-ref-201)
202. Such a positivist analysis, according to which the duties and rights of international law were regarded as discrete historical products rather than as inherent in the human condition, had superseded notions of natural law by the early nineteenth century. David Strang, ‘Contested Sovereignty: The Social Construction of Colonial Imperialism’, in Thomas J. Biersteker and Cynthia Weber (eds.), *State Sovereignty as Social Construct* (Cambridge: Cambridge 1996), 33. [↑](#footnote-ref-202)
203. The British claimed such a monopoly in the case of India even though the limitations of colonial power meant that sovereignty was inevitably layered. Benton, *A Search for Sovereignty* (n 58) 31; and Radhika Singha, ‘The Privilege of Taking Life: Some “Anomalies” in the Law of Homicide in the Bengal Presidency’, *The Indian Economic and Social History Review* 30/2 (1993), 181-82. [↑](#footnote-ref-203)
204. Evans, ‘Where Lawlessness is Law’ (n 92) 5. As Anthony Anghie argues, ‘The ambivalent status of the non-European entity, outside the scope of law and yet within it, lacking international capacity and yet necessarily possessing it . . . was never satisfactorily denied or resolved’. Anghie, *Imperialism, Sovereignty* (n 200)81. [↑](#footnote-ref-204)
205. Paul D. Halliday, *Habeas Corpus: From England to Empire* (Harvard: The Belknap Press of Harvard University Press 2010), 281, 287-93 (hereafter Halliday, *Habeas Corpus*); and Raman, ‘Law in Times’ (n 58) 124. [↑](#footnote-ref-205)
206. Law cannot, in other words, be suspended through law. To take the example of habeas corpus, it is never actually suspended; the law’s powers to detain subjects are, instead, increased. Nor are there any externalities to the rule of law since such a rule implies the movement of law into all spaces of sovereignty in light of the ways of which law is included through its exclusion—creating, to borrow from Law member to the Government of India, James Fitzjames Stephen, ‘”dead-alive”’ law. In the case of the emergency, Nasser Hussain, drawing from Jacques Derrida, suggests that its relationship the rule of law is one of supplementarity, since ‘the supplement adds to the original in a mode that is both agonistic and formative-a necessary addition which threatens to re-place the original’. Halliday, *Habeas Corpus* (n 204)248-49*;* Proceedings of the Legislative Council, 27 March 187, Fitzjames Stephen on the Indian Evidence Bill, V/9/12, BL, cited in Sandra den Otter, ‘”A Legislating Empire”: Victorian Political Theorists, Codes of Law, and Empire’, in Duncan Bell (ed.), *Victorian Visions of Global Empire* (Cambridge: Cambridge University Press 2007), 92; and Hussain, *The Jurisprudence of Emergency* (n 58)*,* 99. See also Jacques Derrida, *Of Grammatology* (Baltimore: Johns Hopkins University Press 1976), 144-45; Agamben, *Homo Sacer* (n 4) 18; and Raman, ‘Law in Times’ (n 58). [↑](#footnote-ref-206)
207. Evans, ‘Where Lawlessness is Law (n 92) 5, 21; and Benton, *A Search for Sovereignty* (n 58) 290. For scholarship on the role of martial law in the maintenance of empire see Hussain, *A Jurisprudence of Emergency*, Ch. 4; Kostal, *A Jurisprudence of Power* (n 94); David Dyzenhaus, ‘The Puzzle of Martial Law’, University of Toronto Law Journal 59/1 (2009), 1-64; and Ryan, ‘Martial Law in the British Empire’ (n 94). The frequent resort to martial law and emergency legislation reveals, as John Reynolds argues, that the British empire was ‘the site of the most established, sophisticated and pervasive system of emergency rule and legislation’. Reynolds, *Empire, Emergency* (n 15)69. [↑](#footnote-ref-207)
208. Michelle Farrell, *The Prohibition of Torture in Exceptional Circumstances* (Cambridge: Cambridge University Press 2013), 199 (hereafter Farrell, *The Prohibition of Torture*). [↑](#footnote-ref-208)
209. Although colonial India was clearly not a democratic state torture in colonial India was perpetrated on behalf of one. [↑](#footnote-ref-209)
210. Rejali, *Torture and Democracy* (n 36) 49. [↑](#footnote-ref-210)
211. Ibid, 46. [↑](#footnote-ref-211)
212. Ibid, 54. See also Thomas and Leo, *Confessions of Guilt* (n 51)*.* Torture was legally part of the judicial process during England’s early encounter with India (as well as illegally, as a means of extorting confessions), though this was no longer the case during the period of British rule. Edmond J. Smith, ‘Reporting and Interpreting Legal Violence in Asia: The East India Company’s Printed Accounts of Torture, 1603-24’, *The Journal of Imperial and Commonwealth History* 46/4 (2018), 605, 612-13. [↑](#footnote-ref-212)
213. ‘Of Torture’, Bentham Papers, Box 46/63–7, University College London Library, cited in Jeremy Davies, ‘The Fire-Raisers: Bentham and Torture’, *19: Interdisciplinary Studies in the Long Nineteenth Century*, 15 (2012), 5-6 [DOI: <https://doi.org/10.16995/ntn.643>] (hereafter Davis, ‘The Fire-Raisers’); see also William Twining, ‘Bentham on Torture’, *Northern Ireland Legal Quarterly* 24/ 3 (1973), 305-57. This is not to say that torture in colonial India could not take other forms, such as mental suffering, nor that it did not have long-term psychological, cultural, social, and inter-generational effects. Bentham’s understanding is, however, largely the way in which torture was understood in colonial India*.*  [↑](#footnote-ref-213)
214. Davies, ‘The Fire-Raisers’ (n 212) 5, 20. Bentham’s understanding of torture can only be deduced from fragmentary texts, written between 1780 and 1804, in his voluminous archive of aborted projects of legal criticism. These have, however, been subject to considerable recent debate on the ethical use of torture. Davies, ‘The Fire-Raisers’ (n 212) 1-2; see also Alan M. Dershowitz, *Why Terrorism Works: Understanding the Threat, Responding to the Challenge* (New Haven: Yale University Press, 2002), 131-63. [↑](#footnote-ref-214)
215. Farrell, *The Prohibition of Torture* (n 207) 173. [↑](#footnote-ref-215)
216. According to Upendra Baxi torture is institutionalized when: ‘(i) *judicious* use of custodial torture is seen both as necessary and *justified* for the performance of role-obligations; (ii) there is discretion to use torture, which is fairly widespread (and not hierarchically concentrated), and determination are consciously made, within the organization, in the exercise and review of this discretion; and (iii) consequentially, the organization as a whole supports these recourses to torture in a variety of ways, even by providing functional and moral justifications, often publicly’. Baxi, *The Crisis* (n 61) 123. See also Wahl, *Just Violence* (n 51)*.*  [↑](#footnote-ref-216)
217. Agamben, *Homo Sacer* (n 4)21. I have referred to *homo sacer* as a form of bare life since rather than being synonymous with bare life *homo sacer* is bare life that is included within the political order. John Reynolds suggests that ‘repressive inclusion’ is a more useful term to encapsulate the experiences of those who are both outside and inside the juridical order in light of the ways in which ‘[i]ntermittent crises and moments of exception are bridged and transcended by mundane everyday legal techniques of control and oppression’. I have sought to encapsulate these various forms of exception, however, through the concept of a regime of exception. Steven DeCaroli, ‘Boundary Stones: Giorgio Agamben and the Field of Sovereignty’, in Matthew Calarco and Steven DeCaroli (eds), *Giorgio Agamben: Sovereignty and Life* (Stanford: Stanford University Press 2007), 52; and Reynolds, *Empire, Emergency* (n 15)211. [↑](#footnote-ref-217)
218. Wahl, *Just Violence* (n 51)56; and Grace Pelly, Jai Singh, Independent People’s Tribunal on Torture, Extra-Judicial Killings and Forced Disappearances, and Human Rights Law Network, *State Terrorism: Torture, Extra-Judicial Killings and Forced Disappearances in India: Report of the Independent People’s Tribunal 9-10 February 2008* (New Delhi: Human Rights Law Network 2009), 100 (hereafter Pelly, *State Terrorism*). See also Balagopal, ‘Deaths in Police Custody’ (n 154) 2028-29; and Nitya Ramakrishnan, *In Custody: Law, Impunity and Prisoner Abuse in South Asia* (New Delhi: Sage 2013). Their reduction to bare life is clear for torture victims; as one victim informed the Independent People’s Tribunal on Torture, Extra-Judicial Killings and Forced Disappearances, her torturers ‘”did not really care”’ for her life, since in their understanding she was already dead, and torture was merely a means to dispose of her body. Pelly, *State Terrorism* (n 217)75. [↑](#footnote-ref-218)
219. Indian police officer, personal interview, cited in Wahl, *Just Violence* (n 51)59. See also Heath, ‘Torture, the State and Sexual Violence’ (n 99). On the nature of caste as a system of graded inequalities see B. R. Ambedkar, ‘Castes in India: Their Mechanism, Genesis and Development’, in Frances W. Pritchett (ed.), *Dr. Babasaheb Ambedkar: Writings and Speeches,* Vol. 1 (Bombay: Education Department, Government of Maharashtra, 1979), 3-22. [↑](#footnote-ref-219)
220. Farrell, *The Prohibition of Torture* (n 207) 246; Jauregui, *Provisional Authority* (n 151)104; and Jauregui, ‘Civilised Coercion’ (n 169) 374. For the challenges such affective engagement with perpetrators of violence poses see also Beatrice Jauregui, ‘Intimacy: Personal Policing, Ethnographic Kinship and Critical Empathy in Northern India’, in Didier Fassin (ed.), *Writing the Worlds of Policing: The Difference Ethnography Makes* (Chicago: University of Chicago Press, 2018), 62-91. [↑](#footnote-ref-220)
221. Miyan Mithu Khan, *Confessions of a Constable* (Benares: E. J. Lazarus and Co., Medical Hall Press 1875)*,* 132; and Peter Robb, ‘The Ordering of Rural India’ (n 143) 128. According to Beatrice Jauregui the police rank-and file in post-colonial India are not *homo sacer* since they are paid professionals and are not generally consigned to physical death; for her the fact that 30,000 of them have died in the line of duty since 1961 demonstrates that they are, instead, simply expendable. A poem from the *Calcutta Police Journal*, published in 1939, captures the sense of expendability felt by the police themselves:

And don't worry for the Policeman

Let him go to the Devil

If he dies—

Well, let him die, It is his duty to get murdered

Sometimes [277] . . .

A feared, detestable, lonely figure

In the crowd.

But the fact that the police themselves, as Rachel Wahl puts it, ‘feel excluded from the category of “humans” . . .’ suggests that such expendability, in both the colonial era and the present, can cross over into *homo sacerization*. Jauregui, *Provisional Authority* (n 151) 104-5, 88; Ashu Chatterjee, ‘The Policeman’, *Calcutta Police Journal* 1 (1939), 5-9, cited in Silvestri, ‘”The Dirty Work of Empire”’ (n 143) 277-78; and Wahl, *Just Violence* (n 51) 171. See also Baxi, *The Crisis* (n 61)86-92. [↑](#footnote-ref-221)
222. Baxi, *The Crisis* (n 61) 99-102; Robb, ‘The Ordering of Rural India’ (n 143) 134; and Saha, *Law, Disorder and the Colonial State* (n 158)9-10, 18-19. See also Akhil Gupta, ‘Blurred Boundaries’ (n 166); and Ranajit Guha, ‘Two Campaigns’,in *The Small Voice of History: Collected Essays* (Delhi: Permanent Black 2002), 612-28. In contrast to torture, however, corruption, like colonial constructions of criminality, was a discursive product of colonial rule. As in the case of torture it was, however, used to discipline Indians, particularly subordinate officials—albeit not too harshly, considering the positive effect it had in tying both subordinate officials and indigenous elites to colonial rule. In regard to policing and corruption Michael Taussig avers that there is no such thing as policing ‘before’ or ‘outside’ of corruption, since ‘corruption . . . sets the decisive parameters such that policing *is* a form of corruption’ (emphasis in original). Robb, ‘The Ordering of Rural India’ (n 143) 134; and Taussig, ‘The Injustice of Policing’ (n 187) 20; see also Gupta, ‘Blurred Boundaries’ (n 166); and Gupta, *Red Tape* (n 119)76-138. [↑](#footnote-ref-222)
223. Chakrabarti, ‘Pax Britannica’ (n 143) 78; Finkle, ‘State, Power and Police’(n 143) 58, 188-194; and Silvestri, ‘”The Dirty Work of Empire”’ (n 143) 70. [↑](#footnote-ref-223)
224. The expectation that the police ‘”should mix as much as possible with people of the locality, get on intimate and friendly terms with them and try to induce them to talk”’ was clearly enshrined in police training manuals. W. Swain, *Manual for the Instruction of Constables in their Duties* (Calcutta 1903), cited in Silvestri, ‘”The Dirty Work of Empire”’ (n 143) 70. [↑](#footnote-ref-224)
225. Finkle, ‘State, Power and Police’ (n 143) 6-15, 48; Kumar and Verma, ‘Hegemony, Discipline and Control’ (n 143) 65; Piliavsky, ‘The Moghia Menace’ (n 155); and Jauregui, *Provisional Authority* (n 151)147-48. Akhil Gupta’s observation that ‘[s]tructural violence against the poor . . . is constitutive of the state’ is thus as apt regarding the colonial state as it is of its post-colonial successor. Gupta, *Red Tape* (n 119)72. [↑](#footnote-ref-225)
226. Clea Finkle suggests that it was only *through* their criminality that members of the subordinate police in colonial India could achieve a subject position. Finkle, ‘State, Power and Police’ (n 143) f. 63, 146. [↑](#footnote-ref-226)
227. Although torture is an open secret in imperial and colonial contexts it erupts into public discourse only when it becomes a scandalous spectacle. In his study of flogging scandals in colonial Nigeria Steven Pierce suggests that even in cases in which such a punishment was legal and carried out with careful attention to approved procedure it appeared, as a form of spectacle, to be both cruel and demeaning; the British repugnancy towards flogging thus stemmed, according to Pierce, not from the flogging itself but the pathos induced by the spectacle of its application. Pierce, ‘Punishment and the Political Body’ (n 101) 209. [↑](#footnote-ref-227)
228. Dirks, *The Scandal of Empire* (n 104)35. [↑](#footnote-ref-228)
229. Dirks, *The Scandal of Empire* (n 104) 30. [↑](#footnote-ref-229)
230. Epstein, ‘Politics of Colonial Sensation’ (n 104) 739; and Dirks, *The Scandal of Empire* (n 104) xii. Scandals also serve to affirm the colonizers’ view of the colonized. [↑](#footnote-ref-230)
231. Marita Sturken, ‘Comfort, Irony, and Trivialization: The Mediation of Torture’, *International Journal of Cultural Studies* 14/4 (2011), 426; Taussig, ‘Terror as Usual’ (n 121) 269; and Chakrabarti, ‘Pax Britannica’ (n 143) 78. On the effects of living with terror see Linda Green, ‘Living in a State of Fear’, in Nancy Scheper-Hughes and Philippe Bourgois (eds), *Violence in War and Peace: An Anthology* (Malden, MA: Blackwell, 2006), 186-95. [↑](#footnote-ref-231)
232. Letter, Sir John Craddock to Lord Liverpool, 1812, cited in Price, ‘The Psychology of Colonial Violence’ (n 105) 37. See also Ben Maclennan, *A Proper Degree of Terror: John Graham and the Cape’s Eastern Frontier* (Johannesburg: Ravan Press 1986). [↑](#footnote-ref-232)
233. Ervin Straub, ‘The Psychology and Culture of Torture and Torturers’, in Peter Suedfeld (ed.), *Psychology and Torture* (New York: Hemisphere Publishing Co., 1990), 49-76. [↑](#footnote-ref-233)
234. Ethan Kleinberg, Joan Wallach Scott and Gary Wilder, ‘Theses on Theory and History’ (Wild On Collective, May 2018) <<https://theoryrevolt.com/>> accessed 8 August 2019. I thank Jonathan Saha for this reference. [↑](#footnote-ref-234)
235. Ibid. [↑](#footnote-ref-235)