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I

SOCIOLOGICAL DESCRIPTION AND THE FORENSICS OF SEXUALITY

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A Coroner's Inquest

Kally Bewah experienced many social deaths before she actually died in 1885, alone in a dilapidated house where she lay naked, bleeding profusely from an alleged abortion.

It is in the medical investigation of Kally Bewah's death that we learn scattered details of her life story.¹ She had belonged to a respectable Hindu family of colonial Calcutta, India. She married at the age of eleven, but three years into her marriage, her elderly husband died. In 1863, after her husband's death, Kally's brother-in-law forced her to leave her inherited property. Her own relatives rejected her as well, accusing Kally of having an illegitimate pregnancy. Thrown out by all of her kin, she would ask her sister Prosonno shortly before dying: 'How will I show my face among so many people?'² A few days later, Prosonno found Kally dead in a shack, yards away from the house in which she was born. Her nude body was decomposing, strewn across the floor, with bundles of bloody clothing under her head.

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Kally's death was recorded by E.W. Chambers, coroner of West Bengal in an official Coroner's Enquiry, narrated in a letter to the Jury of Inquest.³ Chambers observed that the violent case before the Jury of Inquest was commonplace in colonial Bengal, as the 'evidence revealed ... facts which are ordinarily connected with the life of a Hindu widow'. He emphasized that Kally had led an 'unchaste life' and was therefore forcefully expelled by her family, prohibited from leading a respectable life. Her indiscretions increasingly visible to others through her pregnancy, Kally was 'literally hunted from house to house', never to return home again.⁴

In his medical report, the Coroner narrated Kally's social world. At stake for the coroner was the scientific truth behind the dead body, leading to a narration of Kally's life that anticipated the circumstances of her death. The purpose of the coroner's enquiry was to define the cause of death, and Kally's body betrayed the violence inflicted on her body. In describing his findings to the Jury of the Official Inquest, the coroner emphasized that the violence of Kally's physical death was only the end result of a life of shame and 'ill-fame', suggesting that the 'traditions' of Bengali society were culpable for her transgressions and subsequent social and physical degradation.

In the end, all that remained of Kally was her corpse, which became the domain of medical authority and the sole testimony to her life and death.

'This Essay Begins with a Transgression'⁵

In this chapter, I offer a few glimpses of women who emerge in colonial medico-legal descriptions as deviant bodies. As in Ranajit Guha's reading of the testimony of Chandra's death, I ask: how do such details of a woman's life, and death, come to appear in the archive? There are brief, constrained appearances of the precarious lives of women in official historical sources. I explore how experts claimed these lives for their own purposes. Multiple authorities lay claim to the narrative of Kally's death, including the Jury of Inquest, the law, and the colonial archive.⁶ Yet, medical science endowed the coroner with the power to narrate Kally's death into an event. In his narrative, the coroner produced evidentiary truths premised on his claim to a specialized knowledge of the body. How are these bodies described in the language of medical science?

Using texts on medical jurisprudence and their use in colonial surveillance, I argue that medical jurisprudence, also known as forensic medicine, produced an ethno-scientific knowledge of the body that followed a recursive form of reasoning that linked sociological classifications of women to a forensic science of sex. I focus in particular on the medico-legal determination of abortion and its relationship to related forms of knowledge, including forensic knowledge of rape, virginity, and infanticide. This circular logic united scientific descriptions of anatomical attributes of women's bodies with sociological classifications that marked the sexual deviance of Indian women. As in Kally Bewah's report, narratives of forensic medicine travelled from the particularities of the physical body to broad and often fluid sociological categories like 'Hindu widow', 'unchaste woman', or 'prostitute'. These sociological typologies were subsequently invoked by the medical investigator to interpret the legal meaning of the physical features of the woman's body. Medico-legal texts on abortion extended beyond claims to legal veracity, constituting new authoritative forms of knowledge that united sociological and scientific methods to comprehend the potential dangers of women's sexuality.

How do we think of the 'medical' in an account such as the coroner's report? 'Medical' knowledge featured in medico-legal sources trafficked between women's anatomy, physiology, and law in the making of a robust colonial sociology of Indian women and society. Forensic medical writings from nineteenth century India on investigations of women's bodies, including cases of rape, abortion, and infanticide, deployed colonial discourses about the status of Indian women as a marker of civilizational difference.⁷ I see the 'medical' as a unique site where claims of scientific objectivity, legal veracity, and social scientific authority silently converged. Colonial and medical authorities deployed this mode of sociological classification and scientific description to comprehend the nature of the Indian woman.

Forensic medicine—the use of medical science in the practice of law—described diverse circumstances in which medical evidence was used in the application of law. The science of medical jurisprudence for India began to appear in the early nineteenth century. By the middle of the nineteenth century, intersections between law and medicine were codified in the Indian Penal Code of 1860, the Criminal Procedure Code of 1861, and an emerging literature on the science of forensic medicine.⁸ Medical evidence became crucial to legal proceedings through the Indian Evidence Act of 1872, which determined the

types of evidence that were ascertained as 'facts', defined the role of evidence in demonstrating motive, and established the status of medical experts in legal proceedings.⁹ The Indian Penal Code signalled a new approach to governance through criminal law in India. The Code sought to establish new kinds of governance in colonial India through the production of a standard set of rules and operating procedures. The Penal Code introduced an expansive set of laws that addressed women and their sexual and reproductive behaviour, including laws against foeticide, infanticide, and rape.¹⁰ The Criminal Code thus set forth legal standards outlawing crimes that were often carried out in private and intimate spaces. According to colonial officials, forensic medicine could provide new forms of evidence to prove the criminal activity of Indian women hidden from the view of the colonial state.

With the circulation of new forms of scientific knowledge such as forensics in the nineteenth century, the gendered Indian body became visible in new and important ways. Perhaps the most cited example of medical writing on the female body in the colonial period is the medico-legal report concerning the child Phulmoni in debates over age of consent legislation in the late nineteenth century. Tanika Sarkar reads the in-depth medical description of Phulmoni's genitalia as representative of the horror of sexual violence and the complicity of the colonial state in child rape. Sarkar's careful reading of the Phulmoni case demonstrates how contentions about gender established both colonial and Bengali patriarchal authority. Yet questions about the status of medical knowledge in legal proceedings remain. Why did the genital examination come to have status as a key form of evidence in the colonial judiciary? What practices of knowledge linked claims of objectivity to the description of 'native' women's bodies?¹¹

Feminist historiography has investigated important relationships between law, gender, and power in nineteenth-century colonial approaches to social reform.¹² I build on these histories by locating scientific knowledge as a foundational site in the making of not only new forms of gendered difference, but also new modes of sexual knowledge. The medico-legal science of sexuality established new forms of authority over women's bodies and produced new networks of social power and surveillance over women.¹³ Thinking the 'medical' allows us to consider the formation of scientific knowledge alongside the formation of sexual norms. How do changing ideas of sexuality constitute new forms of medical knowledge? How were Indian women's bodies ordered and

imagined in the nineteenth century? By addressing the construction of categories of sexuality through medico-legal textbooks and investigations, I suggest that nineteenth-century understandings of the 'medical' were constitutive of and constituted by a range of 'scientific' knowledge— anatomy and physiology, law, sociology, as well as history.

The Medico-legal Case as Sociological Study

In 1856 Norman Chevers, civil assistant surgeon in Calcutta, published an early textbook for forensic medicine for India, *A Manual of Medical Jurisprudence for Bengal and the North-Western Provinces* (1856). Chevers's influential text was the first in a growing field of treatises on Indian medical jurisprudence.¹⁴ The medico-legal enterprise in India expanded following the publication of Chevers's influential textbooks, with widely circulating textbooks by colonial administrators I.B. Lyons and J.D.B. Gribble and the publication of a widely influential textbook by the Indian doctor and professor of medical jurisprudence in Agra, Jaising P. Modi, in 1920. Publications on Indian forensic medicine appeared in journals, textbooks, and administrative reports from the middle of the nineteenth century, and continued to gain prominence in the first decades of the twentieth century. Indian courts increasingly relied on the new forensic medicine to provide 'scientific' and 'objective' evidence of crimes.¹⁵

In chapters on crimes associated with women, treatises on forensic medicine produce detailed narratives of the physical bodies of women while invoking sociological categories of Indian custom to understand the significance of physical evidence of the female body. Chevers's 1856 edition of his *Manual on Medical Jurisprudence* outlined relevant applications of forensic medicine, categories that continue to be used in textbooks on medical jurisprudence and writings on forensic medicine today.¹⁶ In his textbook, Norman Chevers emphasized the scientific need for the forced genital examination of women: 'The question of compulsory examination is beset with some difficulty. In cases with native women of questionable character, examination becomes a matter of legal necessity.'¹⁷ In the narrative of the body's attributes, the medical expert blurred the boundaries between scientific and non-scientific forms of evidence.

Different manuals on forensic medicine for India arranged the sections on crimes involving women's genitalia in accordance with

Chevers's initial organization.¹⁸ Textbooks included extensive discussions of the signs of virginity, 'rape', 'infanticide', and 'foeticide'. Often, these sequential chapters also include a section on 'Unnatural Offences' that describes crimes of sodomy and 'unnatural' crimes of sex between men. Publications addressed the range of sexual crimes committed on or by women that required genital examination and assessment.

While Chevers's textbook defined a field of enquiry, many genres of medico-legal writing emerged alongside that of the treatise of forensic medicine for India. From the 1870s, Robert Harvey, surgeon general for Bengal, published 'medico-legal' case studies in the widely read *Indian Medical Gazette* for the use of colonial administrators and medical authorities. His reports in the 1870s widely influenced Indian medico-legal science. In his report on medico-legal returns for Bengal for 1870–2, Harvey emphasized that alongside the mandatory examination of the body, non-medical observations were essential for determining women's criminality:

Criminal Abortion is believed to be an exceedingly common practice in India, where the prohibition of widow marriage leads to much immorality, the discovery of which involves social ostracism and exclusion from caste, a punishment so severe, that all means are taken to avoid detection, even although death is risked. A thorough investigation into all the means used by the native Dhais and professed abortionists is still much needed, and although much valuable information has been collected by Dr. Chevers, it remains to be done before our knowledge of the crime, as it obtains in India, can be considered satisfactory. In these cases it is important to know the *whole history of the person*, and those in the returns treated purely in their medical aspect throw little new light on the subject.¹⁹

According to these texts, the questionable character and innate criminality of the promiscuous woman authorized the medical investigation of her body.²⁰ In narratives of the body, 'the whole history' of her sociological status was necessary to understand the anatomical facts of the case. Her physicality revealed her identity as a criminal subject while her identity defined the contours of her anatomy. The medico-legal case study used a narrative device that united the colonial sociological with the scientific: the extraordinary violence on the body was narrated alongside sociological terms and sub-clauses that detailed a woman's sexual 'character'.

Harvey's reports detailed cases with a primary focus on the forensics of women's bodies. In his reports of 1870–2, he offers detailed case studies of abortion. According to Harvey, these cases narrated how Indian women employed violent practices to induce abortion:

In a case at Dinajpur a stick was thrust up the vagina of a prostitute aged 16, and caused her to abort. Mr. Webber found, 'the mucous membrane of the vagina entirely torn away and pushed upwards probably into the uterus' and gave it as his opinion that the woman would die. No post-mortem is recorded.²¹

In Robert Harvey's report in the *Indian Medical Gazette* from 1 December 1875, we again see sociological categories used in the narrative of the body's anatomy:

INJURIES TO THE FEMALE GENITALS—25 cases are returned, where a stick or some hard substance has been thrust into the vagina, potentially to procure abortion. The motives of the crimes are seldom mentioned, but jealousy or desire to cover unchastity are the most common ones.

Subject, *a Mussalmani widow*, aged 45... Entrance to the vagina contused and ruptured, upper part of the vagina and cavity of the cervix filled with blood, partly fluid, partly coagulated. Uterus was twice its normal size ... The woman, *a loose disreputable character*, charged three men with an assault ... Opinion—Death resulted from shock and hemorrhage consequent by the introduction of a blunt instrument. Only one of the accused was convicted. *The statements of the woman were considered wholly untrustworthy by the magistrate.*

In the next case, Harvey again invokes chastity in his scientific assessment:

A girl, age 10, was found dead with a lacerated wound 1/4 of an inch long in the anterior wall of the vagina, with an inflamed uterus scraped of its contents. *Absence of the hymen showed that she had long been accustomed to intercourse.*²²

The clinical writing of the anatomy of women is narrated seamlessly with an assessment of sexual behaviour. Each account united sociological descriptions of sexual behaviour with details of anatomical violence into a description that is sayable, knowable, and automatically medicalized in each case of child bride and widow. Here, as in Ranajit Guha's reading of the *ekrar* (statement or deposition) narrating Chandra's death, we see the entry of different colonized subjects into



the official archive through a distillation of occurrences into the category of 'event' by the authority of a colonial official.²³ Social practices were entered into an archive of criminal evidence, with the evidence testifying to the event of the crime. In this event, the chastity, or lack thereof, of the prostitute girl, the widow, and the dead child-bride become significant to Harvey's assessment of the crime as well to his understanding of the body itself.

The juridico-medical abstractions produce a document that sets its own epistemological limits. Yet even as the 'event' of the crime of rape with foreign objects was reconstructed through evidence of medical knowledge, the violence itself seems to resist the medical language that codifies criminality through classifications of the injured body. Indeed, the medical descriptions of the crimes show a much more perverse concern for the sexual anatomy of the female body than it does for the crime itself. It is as if Harvey recognized the visceral effects of the narrative produced in the writing of these cases. Even as colonial authorities attempted to document these 'events' for their scientific value, Harvey recognized that medical description produces undesirable effects. He warns his readers that 'the cases [of rape and "unnatural crimes"] for the most part are of very little interest', cautioning against seeing these accounts beyond their objective value. He continues, noting, 'there is a general tendency to treat them with a reticence, which takes away all their medico-legal value—a reticence which savors of squeamishness in an enquiry which aims at the extirpation of the crime by making its detection easy'.²⁴

In Harvey the use of anatomical detail alongside sociological categories in the account is essential in the 'detection' of crime. In order to reveal those hidden secrets, the medical enquiry was to map the body and character of the victim as deeply as possible to produce verifiable 'facts' in each case. Harvey's account travelled widely and shaped the understandings of cases of abortion. The widely read British medical journal *The Lancet* emphasized the 'admirable' work of Robert Harvey in his reports on medico-legal issues. According to the reviewer, from 'a section on criminal abortion we gather that the practice is exceedingly common in India, where the prohibition of widow marriage leads to much immorality'.²⁵ Early editions of Lyon's textbook, *Medical Jurisprudence for India* (1889), emphasized that Indians commonly employed the use of 'local violence', including the introduction of



plant irritants and sticks.²⁶ With the circulation of Harvey's text, later editions of Isidore B. Lyon's textbook describe how Harvey's case studies demonstrate that Indians were 'prone' to use violence to hide their 'immorality' in cases of abortion: 'In India, cases of injury by thrusting a stick into the vagina are not uncommon. Harvey states that twenty-five such cases, ten of them fatal, were included in the Bengal, etc., returns for 1870–72.'²⁷ Harvey's reports circulated to create a general understanding that the crime of abortion was not only common in India, but also that its techniques were more violent.

In later editions of his textbook, Lyon offers case studies of supposed suicides, opining that women suspected of suicide more likely died from abortions. He describes these cases with extensive sociological details that surrounded each death:

- (a) A widow seven months gone with child died rather suddenly; an inquest was held by the police, and a verdict returned of death from dysentery. Suspicion, however, being excited, a post-mortem examination was ordered, the result of which was the discovery of the pregnant condition of the woman (which had been concealed in the inquest report furnished by the police), and of the fact that the cause of death was arsenical poisoning. The district magistrate remarks, in reference to this case, that there is every reason to believe that all engaged in the inquest tried to conceal the true cause of death. Bo. Chem. An. Rep. for 1884, reported by the District Magistrate of Bassim, Hyderabad Assigned Districts.
- (b) In this case, which occurred in the Surat district, as in above case, the cause of death was arsenical poisoning, and the deceased was a widow far gone in pregnancy. The brother and sister of the deceased confessed to having given her eight annas' worth of opium in order to procure abortion or to cause death, so as to avoid the disgrace arising out of her condition. No opium, however, could be discovered in the viscera of the deceased. *Ibid.*
- (c) Case of poisoning by arsenic reported by medical officer, Tatta, Sind. Deceased was promised in marriage to a man of her caste (Mussulman), but before marriage she cohabited with him and became pregnant, and was advanced to above the fourth or fifth month, when her parents, to avoid disgrace, it is said, tried very much to procure abortion, but failed (much against her intended husband's will); so having failed to procure abortion, her parents, to save their reputation, it is suspected, gave her poison in her food. Bo. Chem. An. Bep., 1876–7.²⁸

Even as these colonial medical manuals claimed only to be edifying and illuminating a *science* of the deviant body, the narrative effect extended far beyond self-imposed limits of scientific reason. The redundancies and exhaustive details of manuals of forensic medicine revealed the compulsive preoccupations that were claimed in the name of science, from the details of women's genitalia to the obsessive fascination with the pitiable characters that fell victim to Indian 'traditions'. A range of sociological types appear—promiscuous Hindu widows barred from the legitimate realm of marriage, young girls forced into child marriage, and women who engaged in sexual relationships outside of the confines of marriage. Indeed, as Harvey himself warned, medico-legal writing recounted the body and described the events of violence with such detail that they titillated and provoked a dramatic reaction in the reader.

These manuals described genital examination as a process where the investigator gradually closed in on the facts of the crime, starting with observations about the general appearance of the woman to a close and detailed reading of her physical parts, a description that moved from outside to inside. Textbooks of forensic medicine for India produce detailed instructions for conducting a genital examination in sections on rape, a procedure then referred to again in subsequent sections of textbooks on abortion and infanticide. For example, in Gribble's textbook, the investigation begins with broad observations on the appearance of the body. The most important outward observation was whether the suspect woman had the appearance of 'a person addicted to self-abuse or masturbation'.²⁹ The investigation then had to go further into the physical depth of the body. For virgins and women accusing rape, 'it is important to take note of whether the breasts are virginal, or show signs of having been manipulated'.³⁰ The doctor was to examine the external genital organs, which displayed evidence of sexual deviance and potential involvement in prostitution if there was the 'syphilitic sores'.³¹ Finally, the examination culminated in the internal genital organs. The genital examination detailed whether the hymen was ruptured, the size and length of the vagina, and if there were any signs of disease.

Colonial desires for forensic, 'scientific' evidence reveal a preoccupation with graphic descriptions of violence, devices, and anatomies that portrayed the 'reality' of the crime through the body. These scientific

investigations of native women's bodies read the character of the woman solely through an assessment of her genitalia.³² At first glance, these manuals seem to do little except objectify the violence inflicted on the body, heightening the medical quantification of violence inflicted on women's genitalia to generalizations about 'native' sexuality. Yet it is *through* the modes of description that seamlessly unite sociological status and the effects of violence on Indian women's bodies that the medical investigation produced new and important associations between the sociology of women's sexuality, women's anatomical appearance, and the events of their death. The Indian woman's body was perceived as finite and legible, sanctioning a mode of 'inferential thinking that moved from visible indicators on the surface to invisible traits held inside the body.'³³

Forensic Medicine and the Prostitute

The sexually deviant woman in particular was crucial to a powerful vision of modern society, testifying, through her physical appearance, to the depravity of the present condition of Indian society. The 'prostitute' emerges as a central concept in textbooks, a classification that tied Indian women's criminal behaviour to the inherently deviant sexuality of 'traditional' Indian society. In invoking concepts such as 'prostitute', medical authorities regularly cited Indian women's social and sexual deviance as the reason behind crimes of 'concealment'. For medical investigators, the hidden nature of crimes concealing sexual transgressions necessitated invasive investigative modes. By labelling those women who resided outside the regulated space of companionate marriage as 'prostitutes', forensic medical experts defined women outside of marriage as *inherently* sexual and criminal, simultaneously constructing the realm of female sexual desire exclusive of the 'legitimately' married woman.

The critique of widow remarriage and the inherent danger of unbridled widow sexuality are cited as the most important factors in chapters on abortion and infanticide. In Norman Chevers's depiction of widow remarriage, he explained the 'daily commission' of the crimes of abortion and infanticide: 'In a country like India, where true morality is almost unknown ... it is scarcely surprising that great crimes should be frequently practised to conceal the results of immorality, and that

the procuring of Criminal Abortion should, especially, be an act of almost daily commission.³⁴ It was so common that 'in the family of a single Koolin Brahmin, it was common for each daughter to destroy a child in the womb annually. The pundit who gave me this information supposed that 10,000 children were thus murdered in the province of Bengal, every month!'³⁵ In the second edition of his textbook, Chevers connected the crime of abortion to prostitution and emphasized the connection between Indian women's promiscuity and the Contagious Diseases Act of 1868. Chevers emphasized that perverse traditions fostered the existence of prostitutes in Bengal, 'a most striking illustration of the folly of the present system of preventing re-marriage of widows. Calcutta, with a population of 416,000, supports 12,419 women of ill-fame'. In depictions of women's crimes in forensic medicine textbooks, the dangers of abortion and prostitution were tied directly to the prevalence of deviant women who were unregulated by marriage.³⁶

In Chevers, the prostitute emerged as the culprit in crimes conducted on the body of men as well. Chevers's *Manual on Medical Jurisprudence* featured a section entitled 'Rape by Females on Males', which detailed the marks of rape on men who manifested the signs of venereal disease. Chevers declared that prostitutes committed crimes that marked the bodies of young Indian boys in order to free themselves of the diseases acquired through prostitution. Explaining the appearance of syphilis and gonorrhoea in young boys, Chevers declared 'debauched women have an idea that they can rid themselves of venereal disease by having connexion with a child'.³⁷ The prostitute thus became responsible for many different crimes manifested in the private and hidden parts of the human body, from false accusations of rape to crimes of concealment like the abortion to the rape and infliction of disease on men.

Sexing and sexualizing the body were central to the investigation of crimes involving women. The chapters on virginity and rape of Indian girls feature extensive scientific discussions about the physical appearance and quality of the hymen of girls, especially those girls who accuse rape but showed evidence of being 'accustomed' to intercourse.³⁸ Lyon emphasized this point in his insistence that doctors investigate the presence of the hymen: 'Virginity. Is a certain female "*virgo intacta*" or not? The question arises in cases where women are falsely accusing rape, or an unmarried female is alleged to be a prostitute, a matter

that is dealt with under the Contagious Diseases Act.³⁹ It is through narratives that tied physical appearance to sociological categories that medical investigation authorized the assessment of the body.

Lyon's textbook describes 'Criminal Miscarriage' in much the same way it was described by Norman Chevers's text and Robert Harvey's reports. Abortion was 'especially common in India' because of the proclivity of Indian women to commit crimes in order to conceal their behaviour. As he describes, abortion was 'resorted to by both single and married women in order to get rid of the product of illicit intercourse. ... In India the custom of preventing the remarriage of widows tends directly to increase the prevalence of the offence'.⁴⁰ Indeed, the very investigation of crimes related to women required the medical investigator to understand the broad connections between the social phenomena of 'sexual crimes':

Abortion and child-murder are most common amongst the unfortunate class of young Hindu widows, for whom re-marriage and social rights are denied by their religion. Amongst Mohammedans sexual crimes are much more frequent than amongst Hindus. Prostitution is much more extensively practised amongst the former, and sexual jealousy resulting in the murder of paramours and favoured rivals is probably the most frequent case of homicide amongst Mohammedans. In Bengal, for example, the greatest number of rape cases are reported from the Mohammedan districts of Mymensingh and Dacca. That fanatical form of homicidal insanity 'running amok' is more common amongst Mohammedan fanatics than Hindus.⁴¹

In this textbook on forensic medicine, we see a narrative technique that unites a disparate set of sociological types in the same epistemological field. For the medico-legal expert, abortion, prostitution, sexual transgression, and communalist depictions of Muslims and sexual violence were to be read as equivalent for the medical investigator.

Expanding Networks of Surveillance

Manuals of forensic medicine became significant as a form of knowledge because of their widespread use over the course of the nineteenth century, a crucial tool used to define legal understandings of women's sexuality. Forensic medicine was an essential tool in an expanding apparatus of colonial state surveillance and legal control. Nineteenth-century

records from the colonial government of Bengal on the collection of evidence reflect a growing concern for the 'scientific' power of medical evidence in the detection and prosecution of crime. From the 1860s and until the 1890s, the government of India debated whether police in Bengal could legally conduct genital examinations on women who were accused of becoming pregnant and conducting either abortion or infanticide.⁴² In these debates, local authorities emphasized that 'crimes of immorality' could only be detected through scientific fact. Police authorities continued to use the forced genital examination into the twentieth century, citing it as an essential tool in the collection of objective evidence in criminal cases of abortion and infanticide.

Following the enactment of a uniform set of criminal laws in the Indian Penal Code, new institutional apparatuses emerged to monitor and regulate women, and new types of experts were appointed by the state to decipher acts of crime. The Penal Code of 1860 was followed by the enactment of the new Indian Police Act of 1861, which established the Imperial Police and provided detailed guidelines that introduced a new system of policing in India.⁴³ The police emerged as a key actor in the detection of women's crimes as they were charged with the duty of investigating and discovering crime. Through the expansion of the authority of colonial police, the state began investing its agents with the power of direct regulation of women and their behaviour.

With the prohibition of abortion and infanticide in 1860, people across Bengal submitted petitions to the police that detailed suspicious activity of unmarried women suspected of pregnancy. These accusations often singled out young widows and suggested that they intended to abort or had already aborted unborn foetuses resulting from illegitimate sexual relationships.⁴⁴ An appeal to the state for official social regulation, these petitions from people within the community utilized new structures of colonial criminal law to reveal the daily practices of local women. Local authorities, such as village or neighbourhood elders, were to look after these potentially deviant women and to report any attempts at abortion to the subinspector of the police. Guardians of the suspect woman would then submit an ekrar assuring that there would be careful surveillance to ensure that no abortion took place and that they would report any suspicious activity to the police. In cases in which the accused woman denied the pregnancy, the sub-assistant surgeon examined the suspected woman regardless of her consent to

collect evidence of her physical state and any signs of abortion or delivery to prove infanticide.⁴⁵

According to police procedure, women were not to be genitally examined at the *thana* (police station) by the police, but, rather, were to be examined by the local medical authority, a state-designated surgeon. However, when women were suspected of crimes requiring a genital examination, police officers would often expose the woman to public shame, conducting the examination themselves: 'In some places where it is known or suspected that a widow is pregnant, she is summoned to the Thannah [police station] ... and that in cases in which the pregnancy is denied an examination takes place in order to ascertain the fact.'⁴⁶ In some instances the local *chowkidars* (reporters to the state) informed the police of the pregnancy of widows in their village in weekly reports. As a district magistrate suggests in an 1861 report on the medical examination of widows suspected of abortion, a suspected pregnancy out of wedlock was often a point of extortion and oppression by local neighbours and police. Upon learning that a widow had become pregnant, neighbours or the local police immediately accused the woman of intending to commit abortion or of perpetrating the crime, asking for hefty bribes to prevent a public accusation and forced genital examination at the local *thana*.⁴⁷ The forced genital examination of women, used to collect medico-legal evidence, became a crucial tool for governance over the most intimate aspects of everyday behaviour.

Complex networks of local and colonial authorities produced knowledge about women's deviance and their potential criminal behaviour. The police consistently cited the *dhobi* (washerman) as the primary informant on the sexual liaisons of women.⁴⁸ In Gribble and Heher's 1892 *Outlines of Medical Jurisprudence for India*, the text emphasized the significance of the *dhobi* for charges for a woman accused of abortion and infanticide:

In this country, it is generally impossible to obtain evidence regarding the exact time of a woman's pregnancy, and it is only from an examination of the body that it can be decided whether it is that of a foetus or a viable child. If the former, the woman might be convicted of having caused an abortion, but it is only when the latter is proved that she could be convicted of infanticide or of concealment of birth. The statements made by the woman as to her condition are, for medico-legal purposes, untrustworthy. She may or may not willingly deceive, but she

may misinterpret her condition. ... The evidence generally produced to prove a woman's pregnancy is that of neighbours who have observed her figure, or that of a washerman who says that pregnancy for many months she has not menstruated [*sic*], judging from the clothes sent to him to be washed.⁴⁹

Later the textbook describes a case where the dhobi played a pivotal role in bringing charges against a woman: 'A woman was arraigned on a charge of infanticide and also of having caused abortion. The evidence against her was that of the washerman to prove her pregnancy, a cloth stained with blood, and the finding of a decomposed body in a well.'⁵⁰ Because of his intimate knowledge of the daily goings on, the dhobi was designated as a key watch-guard to monitor the sexual lives of women.

As the state employed informal social networks in the formal surveillance of women's criminality, the local *samaj* (society) utilized state power to regulate social hierarchies and prevail in monetary and property disputes related to widow inheritance. Until 1873, families that brought civil property disputes to colonial courts could compel widows to forfeit their property rights on the basis of their 'unchastity', a requirement of forfeiture parallel to remarriage under conservative interpretations of Hindu law, where any relation with another man voided a widow's property rights.⁵¹ In the 'Great Unchastity Case' of 1873, the Calcutta High Court decided, against the public opinion of outspoken Hindu elites, that a widow who had not remarried but was considered 'unchaste' or to have committed 'adultery' would retain her share of her husband's property regardless of her sexual indiscretions. With the decision that widows could inherit property despite 'unchastity', disputing families utilized colonial laws on abortion and infanticide to go beyond evidence of women's unchastity to identify the 'sexually deviant' widow as not only 'unchaste' but criminal, with the hope of recovering property from the widow. Petitions to the state demanding the investigation of women accused of abortion and infanticide continued through the end of the nineteenth century.⁵²

According to local magistrates, women in India were prone to lie to cover up sexual relationships outside of marriage and, therefore, colonial surveillance of these intimate crimes depended on the collection of physical evidence. Without the compulsory genital examination of women, one magistrate insisted, 'false cases of rape and procuring

abortion will largely increase, and we shall have scarcely any means of distinguishing between true and false cases'.⁵³ For another magistrate, requiring consent from women for genital examinations had the potential to 'cripple' the 'administration of justice'. Citing Norman Chevers's 1856 *Manual*,⁵⁴ the magistrate emphasized the untrustworthiness of Indians and the special significance of medical evidence in crimes hidden from the view of the state.

In a country like India ... it is scarcely surprising that great crimes should be frequently practiced to conceal the result of immorality, and that the procuring of criminal abortion should especially be an act of almost daily commission ... it is necessary that every facility should be given to obtain evidence.⁵⁵

Directly quoting Chevers's textbook on the frequency of abortion and widowhood in India in his argument for the necessity of the genital examination, the magistrate emphasized the frequency of concealed crimes committed by deviant women. He warned against policies that would require women's permission in their own genital examination, which he believed would render the colonial state powerless in a world of clandestine crime. Due to the suspect character of oral testimony in India, 'scientific and unerring material evidence' was more useful than any woman's testimony.⁵⁶

Local authorities in Bengal insisted on the evidence of the 'truth' of women's bodies, asserting that local police had the right to assess a woman's genitalia, regardless of her consent. In response to calls by the government of India to end compulsory genital examinations of women, magistrates unanimously concluded that the examination was essential to substantiating crimes perpetrated by Indian women: 'When a charge of the commission of any of these offences [rape, abortion, or infanticide] is instituted, the Court must proceed with the examination *irrespective of the wishes of the women*.'⁵⁷ The medical examination of the accused woman's body was central to this intimate regulation of sexual relations, as it sanctioned the extension of authority over women and their bodies from the samaj to the state. Thus, for the practice of forensic medicine in relation to crimes of rape, abortion, and infanticide, the genital examination, as directed by authoritative textbooks, became a central site of medical investigation and an important form of governance over everyday behaviour.

A Forensics of Female Sexuality

In this chapter I have explored medico-legal narratives about Indian women. The 'medical' of forensic medicine was a site where scientific detail, legal authority, and sociological description converged to create new claims to authority. I have argued that forensic medical texts for India produced extensive knowledge about Indian women's sexuality that united anatomical science with modes of sociological description and the classification of Indian 'customs'. The widespread use of forensic medicine and examination by medical authorities as well as the police arm of the colonial state reveal the significance of forensic medicine to expanding institutions of colonial governance and surveillance over everyday practices and intimate social relationships in the late nineteenth century. Colonial officials described medical evidence of women's crimes to be more useful and factual than the testimony of Indian women, as it revealed the 'truth' behind a crime that was commonly hidden by social norms about sexual propriety and marriage. Forensic medicine extended beyond colonial practices of sociological data collection to become a foundational form of knowledge in the creation of new social scientific studies among Indians as well.⁵⁸ Narratives of medico-legal textbooks produced titillating details, which united social status with the physicality of a woman. These descriptions sought to reveal the depth of the character of crime through detailed narratives of violence and the inner recesses of the female body. Textbooks on forensic medicine sexualized the criminal behaviour of women, characterizing women who resided outside the domain of companionate marriage as socially deviant, unchaste, and potentially criminal.

Originating with these nineteenth-century manuals of forensic medicine for India, legal standards of medical evidence that unite corporeal observations and sociological categories continue to be significant today in the prosecution of rape and infanticide cases. Textbooks in contemporary India are fashioned after colonial manuals, and many reproduce nineteenth-century discussions of rape, virginity, abortion, and infanticide verbatim. Legal scholars of postcolonial India have suggested that courts perpetuate biases about women's sexual propriety through their dependence on conceptions of women's sexuality in medico-legal manuals.⁵⁹ Forensic medical textbooks continue to travel

from the particular physical features of a woman's body to sociological prejudices about chastity, past sexual history, and the moral character of the woman. The continued significance of colonial medico-legal knowledge demonstrates the need for more historical investigations that focus on the relationship of sexuality to new forms of scientific authority, practices of governance, and sociological knowledge.

Notes

1. 'Letter from the Coroner of Calcutta to the Secretary to the Government of Bengal, Judicial Department, dated 14th December 1885', West Bengal State Archives (WBSA), Judicial Department, Judicial Branch, F.N.343, No. B 334 and 335, January 1886.
2. 'Letter from the Coroner of Calcutta to the Secretary to the Government of Bengal, 14 December 1885'.
3. In 1871, the Coroner's Act established the official position of the coroner and the Coroner's Inquest as an official judicial proceeding (Coroner's Act, Act 4 of 1871, 27 January 1871).
4. 'Letter from the Coroner of Calcutta to the Secretary to the Government of Bengal, 14 December 1885'.
5. Ranajit Guha, 'Chandra's Death', in *Subaltern Studies V*, edited by Ranajit Guha (New Delhi: Oxford University Press, 1985), p. 135.
6. Ranajit Guha, 'Chandra's Death', pp. 135–65.
7. For further discussion of medical jurisprudence, colonial difference, and gender in relation to the forensic investigation of rape, see Elizabeth Kolsky, *'The Body Evidencing the Crime': Gender, Law and Medicine in Colonial India* (PhD diss., Columbia University, 2005), pp. 278–347, 400–47 and Elizabeth Kolsky, "'The Body Evidencing the Crime": Rape on Trial in Colonial India, 1860–1947', *Gender and History* 22, no. 1 (2010): 109–30. Kolsky demonstrates how medico-legal understandings of rape shaped the establishment of the 'rule of law' in colonial India. See also Anjali Arondekar's discussion of same-sex archives, sodomy, and medical jurisprudence in her book, *For the Record: On Sexuality and the Colonial Archive in India* (Durham: Duke University Press, 2009), pp. 67–96.
8. See especially Norman Chevers, *A Manual on Medical Jurisprudence for Bengal and the Northwestern Provinces* (London: Carbery, 1856).
9. On the Evidence Act in relation to the implementation of the Indian Penal Code, see Wing-Cheong Chan, Barry Wright, and Stanley Yeo, *Codification, Macaulay and the Indian Penal Code: The Legacies and Modern Challenges of Criminal Law Reform* (London: Ashgate, 2013), pp. 34–8. On the

- medico-legal expert, see Kolsky, *Gender, Law and Medicine in Colonial India*, p. 16. On the codification of the criminal code, see Elizabeth Kolsky, 'Codification and the Rule of Colonial Difference: Criminal Procedure in British India', *Law and History Review* 23, no. 3 (2005): 631–83.
10. See sections of the Code on foeticide (sections 315 and 316); infanticide (section 315), sentenced under the act of murder (section 302); the procurement of minor girls for illicit intercourse (section 366a); selling and buying of girls for prostitution (sections 372 and 373); and rape (section 376).
 11. Tanika Sarkar, *Hindu Wife, Hindu Nation* (Bloomington: Indiana University Press, 2001), pp. 226–49. In her investigation of the significance of the Phulmoni case for the definition of the girl child under colonial law, Ishita Pande interrogates how colonial medico-legal discourse about Phulmoni constituted child marriage as a social and medical problem used to justify a 'humanitarian' intervention by the colonial state. Building on Pande's reading of the Phulmoni case, I would suggest that medico-legal narratives of Indian women's bodies constituted a range of crimes, including rape, abortion, and infanticide, as markers of the violent results of cultural difference. Beyond the question of authority, this chapter carefully interrogates medico-legal narratives to consider the power of the 'medical' in a sociology of sexual knowledge. See Ishita Pande, 'Phulmoni's Body: The Autopsy, the Inquest and the Humanitarian Narrative on Child Rape in Late Colonial India', *South Asian History and Culture* 4, no. 1 (2013): 9–30.
 12. See Mrinalini Sinha, *Colonial Masculinity: The 'Manly Englishman' and the 'Effeminate Bengali' in the Late Nineteenth Century*, Studies in Imperialism (Manchester: Manchester University Press, 1995); Janaki Nair, *Women and Law in Colonial India: A Social History* (New Delhi: Kali for Women, 1996); Lata Mani, *Contentious Traditions: The Debate on Sati in Colonial India* (Berkeley: University of California Press, 1998); Sarkar, *Hindu Wife, Hindu Nation*.
 13. For more on the development of gynaecology and the sexing of the female body in Britain and the United States, see Ludmilla Jordanova, *Sexual Visions: Images of Gender in Science and Medicine between the Eighteenth and Twentieth Centuries* (New York: Harvester Wheatsheaf, 1989); Cynthia Eagle Russett, *Sexual Science: The Victorian Construction of Womanhood* (Boston: Harvard University Press, 1989); Ornella Moscucci, *The Science of Woman: Gynaecology and Gender in England, 1800–1929* (New York: Cambridge University Press, 1990); Alison Bashford, *Purity and Pollution: Gender, Embodiment and Victorian Medicine* (New York: Palgrave Macmillan, 1998). For important inquiries into the question of sexuality and sexual

difference in science in India, see Supriya Guha, 'The Nature of Woman: Medical Ideas in Colonial Bengal', *Indian Journal of Gender Studies* 3, no. 23 (1996): 23–38, her 'The Unwanted Pregnancy in Colonial Bengal', *The Indian Economic and Social History Review* 33, no. 4 (1996): 403–35, and her unpublished dissertation, 'A Science of Woman' (University of Calcutta, 1996); also see an important discussion of gender in relation to liberalism in Bengal in Ishita Pande, *Medicine, Race and Liberalism in British Bengal: Symptoms of Empire* (London: Routledge, 2009). For important and influential studies of colonial discourses of colonized women's female sexuality in other contexts, see, for example, Luise White, *Comforts of Home: Prostitution in Colonial Nairobi* (Chicago, IL: University of Chicago Press, 1990); Anne McClintock, *Imperial Leather: Race, Gender, and Sexuality in the Colonial Context* (New York: Routledge, 1995); Ann Laura Stoler, *Race and the Education of Desire: Foucault's History of Sexuality and the Colonial Order of Things* (Durham, NC: Duke University Press, 1995); Nancy Rose Hunt, *A Colonial Lexicon: Of Birth Ritual, Medicalization, and Mobility in the Congo* (Durham, NC: Duke University Press, 1999).

14. *A Manual of Medical Jurisprudence for Bengal and the North-Western Provinces* (1856) was published after Norman Chevers's initial report on medical jurisprudence from 1854. Chevers modified his manual for all of India based on case law in Bengal. This modified edition became *A Manual of Medical Jurisprudence for India* (1870). On the development of these textbooks from early colonial courts and the role of these textbooks in colonial discourses of difference, see Elizabeth Kolsky, *Gender, Law and Medicine in Colonial India*, pp. 278–347.
15. The second manual on medical jurisprudence in India, J.D.B. Gribble's *Outline of Medical Jurisprudence for India*, was published in 1885. In 1888 Isidore B. Lyon published his *Medical Jurisprudence for India with Illustrative Cases*. Lyon's book continues to be published today, with more than eleven editions. Following Lyon's manual, an Indian doctor and professor of medical jurisprudence in Agra, Jaising P. Modi, published *A Textbook of Medical Jurisprudence and Toxicology* in 1920. Since its publication, Modi's textbook, which reproduced many of Chevers's ideas about crimes of 'Chastity, Infanticide, and Foeticide', has been crucial to the jurisprudence of rape, abortion (until its legalization), and infanticide. It is the reference most often cited for determinations of medical fact in criminal cases involving women in postcolonial India and continues to be used in Indian courts today, with the most recent edition published in 2016 and separate editions published for use in present-day Pakistan and Bangladesh.

16. Flavia Agnes, 'To Whom Do Experts Testify? Ideological Challenges of Feminist Jurisprudence', *Economic and Political Weekly* 40, no. 18 (30 April–6 May, 2005): 1859–66.
17. Norman Chevers, *A Manual of Medical Jurisprudence for India* (Calcutta: Thacker, Spink & Co., 1870), p. 746.
18. Chevers, *A Manual of Medical Jurisprudence for Bengal and the Northwest Provinces*, pp. 460–532.
19. Robert Harvey, *Report on the Medico-legal Returns Received from the Civil Surgeons in the Bengal Presidency during the Years of 1870, 1871, and 1872* (Calcutta: Calcutta Central Press Co., 1876), p. 295. Emphasis added.
20. The medical investigation was scientific, contrary to the 'suspect' practices of the dhai or midwife. On the colonial marginalization of midwifery, see Geraldine Forbes, 'Managing Midwifery in India', in *Contesting Colonial Hegemony: State and Society in Africa and India*, edited by Dagmar Engels and Shula Marks (London: German Historical Institute, 1994), pp. 152–72.
21. Harvey, *Report on the Medico-legal Returns*, p. 305. Emphasis added.
22. Robert Harvey, 'Report on Medico-Legal Returns', *Indian Medical Gazette* (1 December 1875), pp. 309–10. Emphasis added.
23. Guha, 'Chandra's Death', pp. 135–65.
24. Harvey, 'Report on Medico-Legal Returns', p. 309.
25. 'Review of Robert Harvey's Reports', *The Lancet* (8 July 1876), p. 63.
26. Isidore B. Lyons, *Medical Jurisprudence for India, with Illustrative Cases* (Calcutta: Thacker, Spink, & Co., 1889), pp. 376–7.
27. Isidore B. Lyons, *Medical Jurisprudence for India, with Illustrative Cases* (Calcutta: Thacker, Spink, & Co., 1921), p. 139.
28. Lyon, *Medical Jurisprudence for India* (1921), pp. 275–6.
29. Gribble, *Outlines of Medical Jurisprudence for Indian Courts* (Madras, 1885), pp. 239–40.
30. Gribble, *Outlines of Medical Jurisprudence*, p. 274.
31. Gribble, *Outlines of Medical Jurisprudence*, p. 243.
32. This dependence on the Indian woman's genitalia stands in contrast to important studies of prostitutes in the nineteenth century that looked to different 'truth apparatuses' to decipher the nature of the deviant woman. The most influential physiognomic description of prostitutes in the nineteenth century was A.B. Parent-Duchatelet's 1836 anthropological study of prostitutes in Paris, *De la prostitution dans la ville de Paris* (Paris: J.B. Baillier, 1836). For a discussion of physiognomic texts in relation to perceptions of black sexuality, see Sander Gilman, *Difference and Pathology: Stereotypes of Sexuality, Race, and Madness* (Ithaca, NY: Cornell University Press, 1985). Italian physician and criminologist Cesare Lombroso's criminal

types widely shaped the modern field of 'criminology', a comprehensive science of criminal types that could be used in the creation of theories of crime and detection. See, in particular, Cesare Lombroso and Guglielmo Ferrero, *Criminal Woman, the Prostitute, and the Normal Woman*, translated by Nicole Hahn Rafter and Mary Gibson (Durham: Duke University Press, 2003).

33. Jordanova, *Sexual Visions*, 51–2.
34. Chevers, *Manual on Medical Jurisprudence for India*, p. 712.
35. Chevers, *Manual on Medical Jurisprudence for Bengal*, p. 491.
36. Chevers, *Manual on Medical Jurisprudence for India*, p. 712fn.
37. Chevers, *Manual on Medical Jurisprudence for Bengal*, p. 705.
38. 'Signs of defloration, ie, of loss of virginity—Just as the presence of an intact hymen is the most reliable sign of virginity, so rupture or laceration of this membrane is the chief sign of defloration or promiscuity available' (Lyon, *Medical Jurisprudence* [1889], p. 324). See further discussion of the connection and conflation of chapters on virginity and rape in Durba Mitra and Mrinal Satish, 'Testing Chastity, Evidencing Rape: The Impact of Medical Jurisprudence on Rape Adjudication in India', *Economic and Political Weekly* 49, no. 41 (2014): 51.
39. Lyon, *Medical Jurisprudence for India* (1889), p. 324.
40. Lyon, *Medical Jurisprudence for India* (1921), p. 317.
41. Lyon, *Medical Jurisprudence for India* (1921), p. 33.
42. 'Measures for Putting a Stop to the Practice of Police Officers Making Enquiries into the Pregnancy of Widows', *Judicial Proceedings of the Government of Bengal*, Proceedings 76–78, February 1861, and 326, April 1861 (WBSA); 'Interference of Police with Cases of Illegitimate Pregnancy with a View to Prevent Miscarriage', *Judicial File* 232, Proceedings 87–89, March 1881 (WBSA); 'Examination of Women in Criminal Cases', *Judicial File* 830, Proceedings 19–25, December 1888 (WBSA).
43. M.B. Chande, *The Police In India* (New Delhi: Atlantic Publishers and Distributers, 1997), pp. 72–88.
44. 'Measures for Putting a Stop'.
45. 'Measures for Putting a Stop'.
46. 'Interference of Police'.
47. 'Measures for Putting a Stop'.
48. The role of the *dhobi* in this intimate form of surveillance assumes the presence of menstrual blood on clothing encountered by the *dhobi*, and the absence of such clothing from suspect women. See Guha, 'The Unwanted Pregnancy in Colonial Bengal': 403–35.
49. J.D.B. Gribble and Patrick Heher, *Outlines of Medical Jurisprudence for India* (Calcutta: Thacker, Spink & Co., 1892), pp. 364–5.

50. Gribble and Heher, *Outlines of Medical Jurisprudence*, p. 367.
51. Dolores Chew, 'The Case of the "Unchaste" Widow: Constructing Gender in 19th-Century Bengal', *Colonialism, Imperialism, and Gender* 22, nos 3 and 4 (fall/winter 1993): 33–43.
52. 'Examination of Women in Criminal Cases', Judicial File 830, Proceedings 19–25, December 1888 (WBSA).
53. 'Examination of Women in Criminal Cases'.
54. 'Criminal Abortion', in Chevers, *Manual of Medical Jurisprudence for Bengal*, p. 489.
55. Chevers, *Manual of Medical Jurisprudence for Bengal*, p. 489.
56. Chevers, *Manual of Medical Jurisprudence for Bengal*, p. 489.
57. Chevers, *Manual of Medical Jurisprudence for Bengal*, p. 489. Emphasis added.
58. See, for example, a manual on women's medicine, *Gurbini Bandhab* (A Companion Guide to Pregnancy) (Calcutta: 1875), which details the causes of abortion and the detection of criminal abortion as well as the symptoms of pregnancy.⁵⁷ In a section on *papasrido gorbhosrab* (the criminal disposal of the womb), the author, Harinarayan Bandhyopadhyay, explains the reasons for unnatural abortion in colonial Bengal and the instruments and poisons used to induce abortion among Bengali women. He cites Chevers's textbook as well as the Contagious Diseases Act of 1868.
59. See for example, Agnes, 'To Whom Do Experts Testify?': 1859–66; Pratiksha Baxi, 'The Medicalisation of Consent and Falsity: The Figure of the Habitué in Indian Rape Law', in *The Violence of Normal Times: Essays on Women's Lived Realities*, edited by Kalpana Kannabiran (Delhi: Women Unlimited, 2005) and her book, *Public Secrets of Law: Rape Trials in India* (New Delhi: Oxford University Press, 2014); Durba Mitra and Mrinal Satish, 'Testing Chastity, Evidencing Rape: The Impact of Medical Jurisprudence on Rape Adjudication in India', *Economic and Political Weekly* 41 (2014): 51–8.