

## Introduction

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The foundation of our empire in India rests on the principle of justice, and England retains its supremacy in India mainly by justice. Without justice we could not hold India for a moment.

Sir Robert Fulton<sup>1</sup>

On January 15, 1784, Sir William Jones established the Asiatic Society of Bengal, a Calcutta-based center for the study of Indian laws, languages, and traditions. Jones' vision of India, which was shaped by a sense of racial tolerance and cultural connection between East and West, is generally taken as representative of a kinder and gentler brand of early British colonial rule. Just a decade after the founding of Jones' renowned research institute, indigo planter William Orby Hunter was tried in the Calcutta Supreme Court in connection with the torture of three of his female servants, who were discovered with their noses, ears, and hair cut off, their genitals mutilated, and their feet fettered in iron chains. Hunter was sentenced to pay a nominal fine and immediately set free.<sup>2</sup>

The appalling brutality uncovered at Hunter's trial provides a sobering counterpoint to current trends in the historiography of eighteenth-century India.<sup>3</sup> Rather than revealing an environment of assimilation and accommodation, Hunter's extraordinary case bears witness to the racial violence that was a constant and constituent element of British dominance in India. Bringing us right into the heart of darkness, this book examines how quotidian acts of violence simultaneously menaced and maintained British power in India from the late eighteenth to the early twentieth centuries. Physical violence was an intrinsic feature of imperial rule.

<sup>1</sup> J. T. Sunderland, *India in Bondage: Her Right to Freedom* (New York: L. Copeland, 1929), p. 105.

<sup>2</sup> BL, IOR, O/5/4.

<sup>3</sup> W. Dalrymple, *White Mughals: Love and Betrayal in Eighteenth-Century India* (London: Viking, 2002); and M. Jasanoff, *Edge of Empire: Lives, Culture and Conquest in the East* (New York: Vintage, 2006). Dalrymple's amazing narrative offers a portrait of love, intimacy, and interaction even as it exposes the East India Company's aggressive and rapacious expansion.

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This fact is widely acknowledged but narrowly explored, particularly in the Indian historiography. Although the archive is replete with incidents of Britons murdering, maiming, and assaulting Indians – *and getting away with it* – white violence remains one of the empire's most closely guarded secrets.

Even as major episodes of violence mark our understanding of the consolidation of British power in India, everyday acts of violence remain largely absent from the historical literature. This book argues that the history of violence in British India cannot be understood by traversing from one cataclysmic event to the next, from the Battle of Plassey to the Uprising of 1857 to the Jallianwallah Bagh massacre, as the micro-moments betwixt and between these macro-events are where the violence central to the workings of empire can be found. By focusing on crimes committed by a mostly forgotten cast of European characters – planters, paupers, soldiers, and seamen – this study demonstrates that violence was an endemic rather than ephemeral part of British colonial rule in India.

The growth of the British empire expanded the reach of British law, grounding and legitimizing colonialism in the power of legal practices and ideologies. In India, colonial administrators claimed that the promise of British justice was a cornerstone of its government, a guarantor of its liberty, and a key agent in its civilizing mission.<sup>4</sup> British officials not only used law to create the colonial state (the Permanent Settlement Act of 1793, for example, provided the early colonial state with a legal mechanism to collect land revenues), they also used the language of law to legitimize their rule.<sup>5</sup> The view that India had long been enslaved by the tyranny of Oriental despotism made law a critical instrument by which Britons simultaneously established their authority and differentiated colonial law and order from the anarchy of previous regimes.<sup>6</sup> In contrast to the personal and arbitrary rule of the Oriental despot, Britons saw their empire as an empire of law and liberty – not an empire of men, and certainly not an empire of violent men. By offering Indians an impartial judicial system and the equal protection of law, Britons assumed that the loyalty of their colonial subjects and the stability of

<sup>4</sup> For an African perspective, see M. Chanock, *Law, Custom and Social Order: The Colonial Experience in Malawi* (Cambridge: Cambridge University Press, 1985).

<sup>5</sup> B. Cohn, *Colonialism and Its Forms of Knowledge: The British in India* (Princeton: Princeton University Press, 1996), pp. 57–75.

<sup>6</sup> R. Travers, *Ideology and Empire in Eighteenth-Century India* (Cambridge: Cambridge University Press, 2007).

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the empire would be secured. The assumption that British justice would be beneficial and appealing to colonial subjects elided the fact that the establishment of the colonial state and its laws required the displacement of a pre-existing order, a displacement achieved without the consent of the governed.

The relationship between law and violence in the empire was always a tricky one. As Anthony Pagden has shown, imperial Britons in the early modern period strove to distinguish their empire from the empires of their European rivals, particularly Spain.<sup>7</sup> In contrast to what they saw as the cruelty and bigotry of Spanish conquest, Britain's imperial authority rested on ideas about reform, improvement, and the expansion of commerce. To widen its empire of trade, Britain required access to the land, labor, and resources available in overseas colonies. As Britons viewed conquest by force as illegitimate, other means were required to legitimately establish a global imperial polity.

In his *Second Treatise of Government* (1690), John Locke offered a theory of property rights that justified the non-consensual nature of British colonialism and the dispossession of indigenous peoples in the New World.<sup>8</sup> Locke argued that he who mixed his labor with the land to cultivate and improve it lawfully gained property rights and that once settlement was established, natives who attempted to regain their lands could "be destroyed as a lion or tiger, one of those savage wild beasts."<sup>9</sup> This effectively conjoined the empire's rule of law to its theory of just war, bridging the gap between colonial justice and colonial violence. According to Locke, rather than constituting an act of forceful expropriation, British colonial expansion spread civilization and the bounds of law. And, once established, British sovereignty could be legitimately enforced with violence, when necessary.

Two centuries later in India, James Fitzjames Stephen restated and reinforced Locke's theory on law, violence, and colonialism when he evocatively observed that Britain had created a bridge by which "India has passed from being a land of cruel wars, ghastly superstition, and wasting plague and famine to be at least a land of peace, order, and vast possibilities."<sup>10</sup> The two supports holding up Britain's imperial bridge, Stephen claimed, were force and justice. But how could this be so? How could Britain forcibly cement its power in India while simultaneously ensuring justice? Unlike Britain's settler societies in the Americas which

<sup>7</sup> A. Pagden, *Lords of All the World: Imperial Ideologies in Spain, Britain and France, c. 1500–1800* (New Haven, CT: Yale University Press, 1998).

<sup>8</sup> J. Locke, *Second Treatise of Government* (1690). <sup>9</sup> Pagden, *Lords of All the World*, p. 77.

<sup>10</sup> L. Stephen, *The Life of Sir James Fitzjames Stephen* (London, 1895), p. 895.

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removed rather than ruled native peoples, the empire in India governed a vast population of colonial subjects purportedly according to an equal and impartial rule of law. Was it possible to administer equal justice to those who were legally and politically unequal?

India's colonial rulers promised to treat all subjects equally, but at the end of the day law's paramount purpose was to maintain Britain's hold.<sup>11</sup> Despite a rhetorical stance of legal equality, legal practice and conventions placed most Europeans in India above the law and, in effect, tolerated and condoned widespread physical assault and abuse. This violated the theory of equal protection that undergirded the rule of law and made law complicit in acts of racial violence rather than a guard against them. As the radical Indian nationalist Bal Gangadhar Tilak vividly noted in 1907, "The goddess of British Justice, though blind, is able to distinguish unmistakably black from white."<sup>12</sup>

This book demonstrates that the tension between the discourse of a rule of law and the practice of something different snapped around trials of violent Britons, exposing the fact that the scales of colonial justice were imbalanced by the weight of race and the imperatives of imperialism. By taking a classic colonial claim – of bringing law and order to pre-colonial chaos and mayhem – and turning it on its head, this study zeroes in on a rather unusual source of lawlessness and disorder: the Briton himself. The unsettling picture that emerges from our investigation of white violence and its handling in the colonial courts should not be brushed off as a list of exceptions, an epiphenomenal sideshow to the main stage of Pax Britannica. The exemplary cases selected for examination in this book represent a small fraction of those chronicled in the historical record. The innumerable other incidents of interracial violence that never made their way through official channels remain beyond the historian's reach. As James A. Sharpe argues, unrecorded crime is the "dark figure" impeding our understanding and statistical analysis of rates and patterns of crime and conviction over time.<sup>13</sup>

This study offers a history of colonial law and colonial violence that speaks strongly to current debates over the nature and impact of empire and to the persistent significance of race in British India. The problem of white violence exposed the messy work of empire and blurred the purportedly neat line dividing colonizers from colonized. Imperial ideology

<sup>11</sup> On the colonial rule of law and exceptional measures used to sustain British control, see N. Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (Ann Arbor: University of Michigan Press, 2003).

<sup>12</sup> *Kesari*, November 12, 1907, BL, IOR, L/PJ/6/848, File 453.

<sup>13</sup> J. A. Sharpe, *Crime in Early Modern England, 1550–1750* (London: Addison Wesley Longman, 1999), p. 61.

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rested on a series of dichotomies: white/black, colonizer/colonized, civilized/uncivilized, etc. These dichotomies manifested themselves in imperial architecture, city planning, sartorial prescriptions, and other means by which difference was made visible.<sup>14</sup> By the late nineteenth century, the frugal, disciplined, honorable, honest, vigorous, restrained, sporting, and superior Englishman was meant to stand in stark contrast to his inferior Indian other, cast as deceitful, extravagant, sensuous, effeminate, and weak.<sup>15</sup> This binary system was unwelcomingly upended by the white vagrants and planters and soldiers and sailors who drifted about India barefoot, drunk and disorderly, assaulting, burglarizing, and murdering those around them, muddying the lines of racial difference and threatening imperial stability from within. (See Figures 0.1 and 0.2.)

Despite concerted efforts to make colonial distinctions clear and clearly visible, the colonial world was not a world cut cleanly in two. Men like William Orby Hunter exemplified what might be called the third face of colonialism, comprised of whites in India who were neither official British rulers nor subjugated Indian subjects, but rather something in-between. Referred to as non-officials, Britons who did not work for the state in an official capacity functioned as both the bearers and the targets of colonial authority. As the bearers of British power, indigo planters like Hunter expanded the grip of the extractive colonial economy and provided crucial financial returns to the British Government. For this, they were granted advantageous market conditions and special legal privileges that essentially allowed them to police their own industries. At the same time, the unruly behavior of these shadowy figures on the social and physical fringes of the empire also made them the frequent targets of colonial control.

Concern about the tyranny of British colonial rule is practically coterminous with the East India Company's formal assumption of sovereignty in 1765. British efforts to manage the uses and abuses of official power culminated in the impeachment of Warren Hastings.<sup>16</sup> This book contends that non-official troubles and tyrannies are also an important, if lesser-known, chapter in the history of British India. The history of these others within reminds us that Britons in India did not constitute a monolithic ruling class. Furthermore, their mortal misconduct and steadfast

<sup>14</sup> D. Kennedy, *The Magic Mountains: Hill Stations and the British Raj* (Berkeley: University of California Press, 1996); P. J. Marshall, "The White Town of Calcutta under the Rule of the East India Company," *Modern Asian Studies*, 34 (2000), 307–331; and T. Metcalf, *Ideologies of the Raj* (Cambridge: Cambridge University Press, 1994).

<sup>15</sup> M. Sinha, *Colonial Masculinity: The "Manly Englishman" and the "Effeminate Bengali" in the Late Nineteenth Century* (Manchester: Manchester University Press, 1995).

<sup>16</sup> N. B. Dirks, *The Scandal of Empire: India and the Creation of Imperial Britain* (Cambridge, MA: Harvard University Press, 2006).



Figure 0.1 **Planters at drink, 1870s**

This group portrait of three “planters at drink” presents a rare image of the “wrong sorts” of Britons in India. Members of the non-official community who did not work for the state in an official capacity, such as the planters pictured here, made the task of running the empire both easier and more complicated at once. While British tea, indigo, and coffee planters in India provided critical financial returns to the colonial government, their drunk, disorderly, and murderous conduct both presented a serious law-and-order problem and also was an embarrassment to the “right sorts” of official Britons, such as those pictured in Figure 0.2.

refusal to submit to the restraints of law offer evidence of the fact that as the empire expanded, it was not just Indian peoples and territories that the colonial state sought to discipline and dominate. The literature on criminal law in colonial India chiefly emphasizes the ways in which British efforts to control Indian crime and criminality entrenched the power of the colonial state.<sup>17</sup> But the scourge of white crime was another “scandal of empire” that was endemic to the British presence in India and not necessarily an obstacle to its success. For even though the unlawful excesses of men like William Orby Hunter were a constant source of

<sup>17</sup> See, for example, R. Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (Delhi: Oxford University Press, 1998); and A. Yang (ed.), *Crime and Criminality in British India* (Tucson: University of Arizona Press, 1985).





Figure 0.2 **Viceroy's Council, c. 1864–1866**

This group portrait of the Viceroy Lord Lawrence and his Council presents a contrasting image of the “right sorts” of Englishman in India: moral, restrained, honorable, disciplined. In place of the planters’ drinks and glasses are the legislators’ pens and papers. The subjects pictured here are: (Secretaries standing behind from left to right) Edward Harbould Lushington, Financial Secretary; Colonel Henry Norman, Military Secretary; Colonel Henry Durand, Foreign Secretary; Mr. Edward Bayley, Home Secretary; Colonel Richard Strachey, Public Works Secretary; (Members of Council seated in front from left to right) George Noble Taylor; Sir Charles Trevelyan; Sir Hugh Henry Rose (Lord Strathnairn); Sir John Lawrence (Lord Lawrence); Sir Robert Napier (Lord Napier of Magdala); Mr. Henry James Sumner Maine; Mr. William Grey.

consternation to the colonial government, their regulation also offered the state a pretext upon which to expand its power.

In his classic work, *The English Utilitarians and India*, Eric Stokes argued that law reform in colonial India was defined by the radical vision of Benthamites who sought “to redeem a people sunk in gross darkness and to raise them in the scale of civilization.”<sup>18</sup> Stokes emphasized the intellectual and philosophical foundations of nineteenth-century colonial legal developments and described the codification of law in India as part of “the Utilitarian legacy.”<sup>19</sup> Radhika Singha’s meticulous history of crime

<sup>18</sup> E. Stokes, *The English Utilitarians and India* (Oxford: Clarendon Press, 1959), p. 302.

<sup>19</sup> *Ibid.*, p. 234.

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and justice in early colonial India offers a different perspective on the development of the colonial criminal law, which she argues should be read alongside the formation of the colonial state.<sup>20</sup> The argument advanced by this study is that the codification of the Indian law was neither born solely of an abstract English political philosophy nor designed to create a state to rule over only Indians in India. Instead, codification was the official response to the moral, legal, and political dilemmas posed by the unruly third face of colonialism.

Although non-official violence was discursively represented as a menace external to the official organs of governance, its constant presence was an unseemly reminder of the disquieting violence that inevitably accompanied imperial forms of power. Contradicting the imperial promise of law and order, the enduring problem of white violence vividly revealed the disorder and terror brought through colonial contact. The murderous violence and lawlessness of the many white vagabonds, imposters, burglars, beggars, planters, escaped convicts, and renegade soldiers who wandered about India's port towns and into the interior made them a menace to each other, to local Indians, and to the colonial government, which was either unable or unwilling to control them. Their behavior also challenged the ideologies of moral and racial superiority that were so central to the imperial mission, embarrassing the better class of official Britons who believed both in the right to rule and in the obligation to rule righteously.

By bringing the painful bodily experience of the Raj back into view, this study departs from the cultural concerns that have dominated the literature in recent years. Colonialism, we now know, was never exclusively a project of political, economic, and military domination. Colonial interventions also bore down brutally in the domain of culture.<sup>21</sup> Yet, in contrast to the rich literature on the violence of colonial knowledge, we know comparatively little about the physical violence of the colonial encounter. While there may be nothing novel about the claim that colonialism was violent, it is odd that so little attention has been devoted to the bloody clash of bodies involved in running the empire. It is also worth noting how much more fully the question of violence is explored in the scholarship on anti-colonialism than it is in studies of colonialism itself.<sup>22</sup>

<sup>20</sup> Singha, *A Despotism of Law*.

<sup>21</sup> E. Said, *Culture and Imperialism* (New York: Vintage, 1994); Cohn, *Colonialism and Its Forms of Knowledge*; and N. B. Dirks, *Castes of Mind: Colonialism and the Making of Modern India* (Princeton: Princeton University Press, 2001).

<sup>22</sup> The quintessential text on anti-colonial violence is F. Fanon, *The Wretched of the Earth* (reprint Manchester: Grove, 2005). For a good overview, see R. E. Young, *Postcolonialism: An Historical Introduction* (Oxford: Blackwell, 2001), pp. 293–307.



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Of late, historians of certain British colonies have illuminated the intrinsic violence of imperialism, fracturing the benign and bloodless myth of Pax Britannica by showing its sometimes brutal core.<sup>23</sup> At the same time, some revisionist historians have downplayed and dismissed the violence of the British colonial encounter.<sup>24</sup> Aside from a few works that consider merciless British reprisals for acts of native violence,<sup>25</sup> most historians of British India evade the topic altogether, fortifying – perhaps unintentionally – the assumption that racial violence was marginal to the workings of empire in India.<sup>26</sup> Even a recent account of the embodied experience of the Raj devotes a scant eight pages to the history of corporeal violence.<sup>27</sup>

An important review essay on empire and violence attributes the paucity of histories on colonial violence to a paucity of source material.<sup>28</sup> This argument does not hold in British India, as the archives plainly show. In 1860, *Times* correspondent William Howard Russell exposed the reading British public to the atrocities committed by Britons in response to the Indian Uprising of 1857. As Russell informed his readers: “that force is the basis of our rule I have no doubt; for I have seen nothing but force employed in our relations with the governed.”<sup>29</sup> In the ensuing decades, polite notices posted on the walls of colonial hotels openly reminded white patrons that “Gentlemen are earnestly requested not to strike the servants.”<sup>30</sup> By the close of the nineteenth century, newspapers across India

<sup>23</sup> Recent publications on non-military colonial violence include C. Elkins, *Imperial Reckoning: The Untold Story of Britain's Gulag in Kenya* (New York: Henry Holt, 2004); J. McCulloch, *Black Peril, White Virtue: Sexual Crime in Southern Rhodesia, 1902–1935* (Bloomington: Indiana University Press, 2000); S. Pierce and A. Rao (eds.), *Discipline and the Other Body: Correction, Corporeality, Colonialism* (Durham, NC: Duke University Press, 2006); and M. Wiener, *An Empire on Trial: Race, Murder, and Justice under British Rule, 1870–1935* (Cambridge: Cambridge University Press, 2009).

<sup>24</sup> K. Windschuttle, *The Fabrication of Aboriginal History* (Paddington: Macleay Press, 2002).

<sup>25</sup> C. Herbert, *War of No Pity: The Indian Mutiny and Victorian Trauma* (Princeton: Princeton University Press, 2008); and R. Mukherjee, *Awadh in Revolt 1857–1858: A Study of Popular Resistance* (Delhi: Oxford University Press, 1984).

<sup>26</sup> Exceptions include J. Bailkin, “The Boot and the Spleen: When Was Murder Possible in British India?,” *Comparative Studies of Society and History*, 48 (2006), 462–493; and D. Ghosh, “Household Crimes and Domestic Order: Keeping the Peace in Colonial Calcutta, c. 1770–1840,” *Modern Asian Studies*, 38, 3 (2004), 598–624.

<sup>27</sup> E. M. Collingham, *Imperial Bodies: The Physical Experience of the Raj, c. 1800–1947* (Cambridge: Cambridge Polity Press, 2001).

<sup>28</sup> J. McCulloch, “Empire and Violence, 1900–1930,” in P. Levine (ed.), *Gender and Empire* (Oxford: Oxford University Press, 2004), pp. 220–239.

<sup>29</sup> W. H. Russell, *My Indian Mutiny Diary* [reprint of *My Diary in India, in the Year 1858–59, 1860*] (London: Cassell, 1957), p. 29.

<sup>30</sup> M. Edwardes, *Bound to Exile: The Victorians in India* (London: Sidgwick and Jackson, 1969), p. 195.

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were reporting daily on the menace of white violence and the scandalous acquittals of Britons accused of brutalizing Indians. In July 1892, the editor of *Vrittanta Chintamony* wondered what was so distinctive or different about this vaunted gift of British justice, as “Englishmen now grind down the natives in the same way as the Brahmins did the other classes in former days. If Englishmen commit any crimes, their deeds are not regarded as criminal, while the same deeds performed by others become serious crimes.”<sup>31</sup>

This study joins the lively debate about the impact of empire on Indian society by raising serious questions about the manner in which colonialism sustained itself. Although the book borrows from the insights and arguments offered by colonial and post-colonial theorists, discourse is not its main protagonist. Nor is this a book about how Britons viewed their empire or how the empire was viewed by Indians. Rather, this study highlights the everyday practices of racial violence committed by individuals in local settings while insisting that the brutality of a man like William Orby Hunter cannot be separated from a legal system and a colonial structure that made his actions possible. Hunter may not have conformed to the standards of the ideal English gentleman, but in his nonconformity, and in his brutality, he too enacted and enforced imperial power.

The consistent failure to punish European defendants in so-called “racial cases” gave the lie to the imperial promise of a fair and certain rule of law and highlighted the enduring presence of race in the colonial administration of justice.<sup>32</sup> What outraged Indian journalists and nationalists in the late nineteenth century was not simply the fact of white violence but its handling in the criminal courts. Race had a clear, obvious, and ongoing influence over legal decision-making as Britons accused of assaulting and murdering Indians were booked on lesser (if any) criminal charges, which resulted in little to no punishment. Contrary to David Cannadine’s controversial claim that rank and status were more important in the empire than race, British police, judges, and juries in India routinely collaborated across the hierarchies of class to buttress the racial basis of colonial dominance.<sup>33</sup>

If white violence was a common rather than exceptional component of British rule in India, then law was its most reliable and consistent

<sup>31</sup> *Vrittanta Chintamony*, July 15, 1891, BL, IOR, L/R/5/106.

<sup>32</sup> On race and the limits of the rule of law in colonial Australia, see J. Evans, “Colonialism and the Rule of Law: The Case of South Australia,” in B. Godfrey and G. Dunstall (eds.), *Crime and Empire 1840–1940: Criminal Justice in Local and Global Context* (Portland, OR: Willan Publishing, 2005), pp. 57–75.

<sup>33</sup> D. Cannadine, *Ornamentalism: How the British Saw Their Empire* (Oxford: Oxford University Press, 2002).