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Articles

Toxic matters: Medical Jurisprudence and the Making of the Indian Poisons Act (1904)

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Résumés

English Français

The article seeks to problematize the relationship between law and medicine by studying the tensions which accompanied the emergence of medical jurisprudence in British India during the second half of the nineteenth century. In a context of British government apprehension as to the legality of its rule in India, the article focusses on official concerns about the unmonitored circulation of toxic substances, particularly arsenic, which culminated in the Poisons Act (1904). The article investigates the role of toxic substances in historical narratives of expertise, and also traces the emergence of the idea of an autonomous native society in colonial and medical/forensic discourse, locating its articulation in exchanges between British and native salaried experts.

Cet article cherche à problématiser la relation entre droit et médecine en étudiant les tensions qui ont accompagné l'émergence de la jurisprudence médicale en Inde britannique au cours de la seconde

moitié du XIX^e siècle. Dans un contexte d'appréhension du gouvernement britannique quant à la légalité de son régime en Inde, l'article met l'accent sur les préoccupations officielles concernant la circulation non contrôlée de substances toxiques, en particulier de l'arsenic, qui a abouti à la loi de 1904 sur les poisons. L'article se penche sur le rôle des substances toxiques dans les récits historiques d'expertise et retrace également l'émergence de l'idée d'une société autochtone autonome dans les discours coloniaux et médico-légaux, situant son articulation dans des échanges entre experts salariés britanniques et autochtones.

Texte intégral

Introduction

1 In the historiography of medicine in British India, the social as an analytical category is a source of productive tension. It is difficult for historians of colonial medicine in India to claim a social life for indigenous medicine, positing the idea of an autonomous, indigenous life-world of medicine and therapeutic practice prior to the colonial archive. This is primarily because much of the evidence and history of pre-colonial medicine lies within the very archives of colonial medicine, where indigenous forms of medicine and healing are accessible not as distinctive repertoires of discipline or discourse but can only be imagined as embedded within indigenous cultural practices and understandings of the body and its diseases/cures. Recent trends in scholarship have underscored the virtual impossibility of positing a pre-colonial “before” and a “colonial after”.² Thus, as David Arnold has claimed “any attempt to present the social life of substances is [...] tainted by colonialism’s epistemological quest and politicizing agenda”.³

2 This article accordingly does not view the “social” in the history of colonial medicine as a self-evident space of investigation, but seeks instead to inquire as to how it emerged as a historically durable structure in the medico-legal articulations of British Indian officials in India in the latter half of the nineteenth century.⁴ Specifically, the article focusses on concerns over the unregulated circulation of toxic substances, particularly arsenic, in British India (given that there was no food and drugs law that controlled the quality and ingredients within indigenous or western medicines in colonial India until the 1940s). It traces the interface between these concerns and the rise of medical jurisprudence, seeking to demonstrate the ways in which the rise of a supposedly impartial medical jurisprudence, and the social scientific explanations of crime it engendered, may be seen as expressions of the ways in which scientific expertise emerged from within the ranks of colonial bureaucracy through exchanges between the British and natives.

3 The first section of the article investigates how medicine came to be constructed as a redress against concerns of corruption in the dispensation of justice before and after the Indian Penal Code of 1860. It traces the self-fashioning of the medico-legal expert as an arbiter between the use and abuse of evidence in judicial proceedings. New “experts”, such as Norman Chevers,⁵ claimed an authentic and impartial expertise in cases of suspected poisoning but how valid was their claim to a neutral perspective (a “view from nowhere”)?⁶ This question is investigated via an analysis of the development of a number of manuals of medical jurisprudence. Chevers’ writings emphasized two limitations that prevented the dispensation of justice in criminal cases of poisoning – medically, the lack of a desideratum of vegetable poisons prevalent in India and, medico-legally, the invalidity of the corpse as a source of evidence due to climatic conditions, the lack of adequate personnel trained in post mortem techniques, and the overwhelming disposition of natives to manipulate evidence.⁷ However, his work also stood out as a critique of the state of law and order in India because of the deficiencies he perceived in jurisprudential processes (particularly, the way in which evidence was treated by the native police and the widespread use of torture to extract confessions).

4 The second section considers the emergence of social, institutional exchanges between native and British “experts” through the constitution of the Bengal Social Science Association (1867-1876), focusing particularly on the correspondence and interactions between British “experts”

(such as Chevers) and those from India, such as Kanny Loll Dey (Additional Chemical Examiner of Bengal, an acclaimed authority on herbal medicinal drugs and their chemical composition).⁸ Such salaried indigenous experts were not, it is argued, merely translators in the literal sense of the term. They were expected to absorb and transmit scientific knowledge concerning bodies impartially, without disowning the experience of being among natives, to serve this colonial information order of which they were essential tools.⁹ The history of the institutionalization of social science in British India thus bears witness to the makings of a hypothetical equivalence between native and colonial experts, generating the possibility of exchanging notes and meanings about things toxic but also initiating a dialogue between medicine and law. Discussions on native practices, such as those which took place between Chevers and Dey, arguably led to the social being identified as a project – a transformational realm of possibilities.

5 The final section studies the making of the Indian Poisons Act (1904) against the backdrop of persistent doubts about the viability of legislation prohibiting the circulation and possession of toxic substances (even as other voices of concern were raised against the onslaughts of arsenic, opium and other vegetable poisons going back to 1860s).¹⁰ Such was the degree of hesitation that the government did not act even after Surgeon J.F Evans and Chunilal Bose, Chemical Examiner and Additional Chemical Examiner of Bengal, had jointly made urgent pleas in favor of a legislation in the Toxicological Section of the Indian Medical Congress of 1894. This article studies how the act which was eventually enacted in 1904 negotiated the limitations of establishing the right to punish and even to take life against the crime of poisoning, the social practices it thereby foreclosed, and the silences it failed to breach, underscoring one historian's apt description of British law in India as both a measure and limit of imperial rule.¹¹ Overall, the article underscores the historical contingencies that led to the emergence of the idea of an autonomous native society in colonial medical and forensic discourse as an explanatory category, by locating its articulation in the exchanges between British and native salaried experts.

Medical Jurisprudence Manuals in Action

6 Norman Chevers was not the first to publish a work of medical jurisprudence in India. Two years before Chevers published his *Manual of Medical Jurisprudence in Bengal and North Western Provinces* (1856), Charles Baynes, Civil and Session Judge of Madura, had published an early work which aimed to introduce judicial and magisterial personnel to the correct usage of medical evidence. Aiming “not to make a *large book for reference*, but a *small one for perusal and reperusal*”, Baynes provided a general overview of the expected procedures of medical investigation to be pursued in relation to the detection of poison, and identified questions to be asked of the medical expert in a court of law.¹²

7 Unlike Baynes' rather limited and procedural work, however, Chevers' work (1856, 1870) not only aimed at a wider audience (including both medical experts, jurists, law makers) but was also critical of existing practices, identifying deviation from the norms of propriety in judicial investigation as his main reason for studying medical jurisprudence in India. Improper use of evidence, Chevers insisted, was rife among natives across the ranks of criminals and police. The third (1870) edition of Chevers' manual (the second having failed to make it beyond the press) took an especially skeptical view of the “old police force”, highlighting the paradox that he (Chevers) suspected the very police reports of Lower Bengal on which he was dependent for a history of medico-legal cases. The 1870 edition specifically accused the police, rather than magistrates and medical personnel, of jeopardizing the passage of justice.¹³

8 Over the years, Chevers' skepticism of police records, and suspicion of rampant manipulation of evidence by the natives in general, led him to suspect that crimes peculiar to India, such as cattle poisoning, might be far more systematic than observable in available data.¹⁴ While extra vigilance and zeal of the part of the police in certain areas suspected to be “infested” with cattle poisoners might render more incidents of cattle poisoning visible, he believed such surveillance

did not act as a deterrent.¹⁵ What caught Chevers' attention was the failure of post mortem and chemical examiners' reports to betray, despite repeated allegations of cattle poisoning by the police and the natives, any signs of arsenic. Only two out of the many suspected cases Chevers revisited had demonstrated signs of arsenic; as and when they did, reports by Chemical Examiners showed a wide range of careful manipulation of arsenic to escape suspicion (being pulverized and kneaded into a ball with articles of everyday edibles like coarse wheat flour, for example, or being mixed with powdered glass). In case of flour, there were instances of this being further rolled up in grass or leaves of *bajra* (Pearl Millet) or *mohwa* (*Madhuka Longifolia*), or mixed with castor oil. Wide variety of material traces generated suspicions of manipulation, which purportedly rendered arsenic proper untraceable, strengthening Chevers' conviction that such crimes had a systemic status that frequently evaded criminal conviction, remaining incomplete as investigative cases.¹⁶

9 Chevers' concerns over the supposed endemic nature of poisoning in British India were not confined to cattle, however. His broader suspicions are best demonstrated by a consideration of his treatment of *thuggee* (highway robbers). In his 1856 work Chevers had noted his suspicions that *thuggee* had shifted from their traditional *modus operandi* of strangulating the victim, to one of poisoning.¹⁷ While he had little evidence to support his theory in 1856, by 1870 he had compiled a list of cases of theft by the admission of poison which demonstrated, if not a vast number of suspected cases which escaped law, at least the territorial distribution of this form of crime in Bengal.¹⁸ Stretching this argument beyond *thuggee*, Chevers concluded that reports claiming that *sati* (the custom of burning a widow on the funeral pyre of their deceased husband) and infanticide had disappeared under British administration also failed to see through the changing material character of those crimes (switching again from visible means to the adept use of poison).¹⁹

10 What we see in Chevers' manuals is the positioning of medical jurisprudence in response to a perceived crisis of order, attributed to dynamism in criminal behavior associated with poisoning. Thus, transformation in the materiality of crime such as *thuggee* manifested itself in reorganizing their collective formations. Chevers observed that, unlike in the past, thugs now divided themselves into smaller groups to intoxicate travelers and purloin with their belongings. The inability of British law in India to keep pace with these changing material manifestations of criminal behavior, expressed in the changing social formations, rendered the law impotent – a condition that Chevers identified as having perpetually plagued British laws in India. In this case, such small group formations rendered ineffective the approver system, an element of the judicial system of British India which made it possible for a participant in a crime to confess on behalf of the rest the group as co-conspirators.²⁰ This, as the rest of the section will show, explains Chevers' unflinching belief in the value of toxic substances as objective evidence in suspected cases of criminal poisoning.

11 Chevers' insistence on material evidence as a decisive indicator of the social status of poisoners led him to construct a table of notable poisons, present in both editions of his and surviving substantial changes in his own understanding of crime and criminality in India (see Table 1 below).

Table 1. Chevers' Classification of Notable Poisons.²¹

<p>I The Preparations of Arsenic Aconite Nux Vomica Opium Lall Chitra Oleander</p>	<p>For Assassination and Suicide</p>
<p>II Datoorah Gunjah</p>	<p>With a view to producing intoxication, insensibility or fatality, but not perhaps with intent to kill, although death frequently results from their use.</p>

III Lall Chitra	For abortion
IV Sulphate of Copper Arsenic Snake Poison, &c.	Given as medicines in poisonous doses.

12 Chevers did realize the need to justify his resilience in holding on to this table for fourteen years. He pointed out in his 1870 edition that even though Chemical Examiners had chosen, for reasons of expediency and scientific inquiry, to include only those articles of poisoning which were most frequently used, he had preferred to retain the old schema, by including all the poisonous articles that had featured in cases of suspected poisoning recorded to date.²² Hence, Chevers' scheme, aware of an incomplete desideratum of poisons available in India, was open to the possibility of more substances being added to the scheme, while limiting the scope of criminal manifestations in correspondence with respective substances.

13 Arguably, Chevers' inclusion of this table in the 1870 edition is significant given as the work categorically distanced itself from the first edition in terms of its objective in the light of the Indian Penal Code of 1860 which, he acknowledged, had changed laws in India beyond recognition.²³ In the first edition, he had conceded that while the earlier jurists like Macaulay and Mackintosh had laid bare the moral defects of the natives, which were clearly validated by present day police records of crimes in India, their views failed to convey that very moment, when the "native character verges upon criminality". They afforded, Chevers wrote,

little insight into the deeper and darker resources of the Bengali and Hindustani nature when warped to evil; into those springs of action which develop the criminal characteristics of the people, without a knowledge of which it is impossible that we should acquire the power – so indispensable to the successful tracing or just weighing of any description of guilt – of regarding the natives' crimes from those points of view, whence they themselves regard them.²⁴

14 While he remained steadfast in his objective of discovering natives' criminal pathology, in the 1870 edition Chevers forcefully abandoned his previous leanings towards the works of T.B Macaulay, Chairman of the drafting committee of the penal code in 1835 and James Mackintosh, Chief Judge of Bombay.²⁵ In a complete reversal of his earlier views, Chevers sarcastically noted Macaulay's emphasis on certainty over diversity while drafting the legislation as a "road which leads to the jail".²⁶ Hence, the table claimed its afterlife thanks to Chevers' authorization of it as a scientific device, powerful enough to survive his disengagement with Macaulay and Macintosh, and their respective reduction of crimes indigenous to India as one of racial difference between Bengalee and Rajput physical attributes and mental temperaments. Chevers now represented crime as a universal legal problem, and custom as the true measure of distinguishing the national symptoms of criminality, and therefore pathological essence of crime in a particular country. Paying heed to his native friends' caution, Chevers in this edition deliberated long and hard before concluding "that a criminal practice, which from time to time, makes its appearance among a people, is a national custom".²⁷

15 Chevers' invitation to sociologists to refer to this edition was clearly inspired by the expectation that the table, now embellished further, would explain the peculiarities of poisoning, among other crimes, as a symptom of social pathology in India.²⁸ Each of the select toxic substance came to life as "criminal devices", made available by the expanding information order represented by native Assistant Surgeons posted in the districts. Chapter allocation of this edition also reflected poison and poisoning separately, the diversity of the former representing the "criminal devices", corresponding to the subjects of poisoning – the child in case of infanticide, the woman in case of abortion, the husband where the woman had a love interest. The abusive relation between select toxic substances and criminal motivations powered Chevers' search for an abstraction that would make up for the limits posed by the vague manner in which the Indian Penal Code (1860) – hereafter IPC – defined poisoning.

16 The IPC, Chevers lamented, was deficient in its seeming expectation that defendants should

be knowledgeable of the difference between intoxicants and poisons in order to be tried as a criminal.²⁹ Contending that in many cases defendants routinely feigned ignorance, he described a recorded instance where the wife of a victim had claimed ignorance as to the nature of the substance concerned, having (she said) bought it to cure her husband's impotence at the insistence of her paramour. Under interrogation the shopkeeper who had sold the powder replied that she had cited the killing of rats as the reason for purchasing what was in fact arsenic.³⁰ Chevers was certain that the use of ignorance as a ruse allowed vast number of suspected cases of poisoning of men by their wives to go unaccounted for.

17 Chevers' view was that the discrepancy between prosecuted crime and suspected cases of criminal poisoning was a clear manifestation of the failure of the IPC to keep pace with the dynamic character of customary practices.³¹ This is borne out of his speculation as to whether the British abolition of *sati* could have served to revive this customary practice. Anecdotes dating back centuries seemed to suggest to Chevers that *sati* may have been introduced by the Brahmins precisely in order to circumvent women taking to poisoning of their husbands.³² In the speech delivered by Bose and Evans in the Indian Medical Congress of 1894, Chevers would be ridiculed for this observation, as underscoring the imaginary fables that had been drawn up by officials in order to mystify poisoning as a crime in India, and pose obstacles to a possible legislation against poisons to address the crime.³³

18 For Chevers, what appeared to defeat the law was the extent to which violence was deemed socially acceptable, coupled with the wide availability of murderous substances.³⁴ In response to the much-debated question as to what rendered effects of *Plumbago Rosea* or *Lal Chhitra* fatal for a pregnant woman and child (Chemical Analysts having failed to discover any chemical effects from the viscera) Chevers concluded on the basis of his anatomical investigation of vaginal tracts that death was caused by the mechanical force symbolic of collective sanction available for abortion, betraying embodied socialities that challenged legal maxims.³⁵ For him, the nonchalance with which *dhaees* defended their acts betrayed the historically available collective sanction for such acts of violence.³⁶

19 In contrast to the homicidal agents, item IV in Chevers' table identified substances which were given in poisonous doses but where the intent was not clear. As he found out from the native Assistant Surgeons, the constitution of *bish borree* (literally poison pill) usually prepared by Bengalee *kobeerajes* (practitioners of Ayurvedic medicine) failed to betray any uniform pharmaceutical combination, revealing a wide application of vegetable and chemical substances. Therefore what was important for detection were those "springs of action", that propelled those fatal moments of exchange of the commodity, leading to crime.³⁷ In cases of poisoning such sites ranged from the bazaar, which for Chevers was in any case a place where law existed only in its breach, to the home. Also notable in his narratives was a focus on the exchanges of socialities, which harbored potentially fatal consequences (such as when the travelers took sweetmeats or sherbet from unknown fellow travelers or when a man took a serving of lentil soup from his wife. Suspected (and judicially-confirmed) cases of abuses of exchange at a daily level were, for Chevers, proof of a distortion in the use value of commodities and formed the basis for his claims as to the phenomenon of poisoning in India.³⁸

20 Despite bemoaning the limitations of existing criminal laws and regulations in India, Chevers was, it is contended, closely following the mandate of the Indian Penal Code to defend personhood. Personhood, as defined by the Indian Penal Code, identified the person "bound by law" (such as an official) who represented the Lockean ideal of an embodied/propertied subject but was required by virtue of that power to take actions on behalf of law even in the absence of a warrant.³⁹ Illustrations of poisoning in the Indian Penal Code represent a very important means of defining criminal culpability. Poisoning featured as one of the preferred modes of representing culpability, especially when it exemplified criminal acts as collaborative between more than one person. The defense of personhood undertaken by the Indian Penal Code thus implicated this collective entity with the responsibility of criminal behavior rather than the individual criminal. Works in legal history have reminded us of the embarrassing legacy of liberal jurisprudence in the colony, such as the Habeas Corpus.⁴⁰ Representing since the seventeenth century the subject's right to appeal against the Crown, the writ was introduced in

India as a mode of binding the subject to law. In a similar vein, illustrations in the Indian Penal Code came to represent the mandate to treat criminal behavior as a generically non-singular act, representing familial bonds which purportedly defined property ownership in India. Reflecting the urgent need to calibrate norms of personhood following the Indian Penal Code, Chevers not only revised the title of his 1870 edition to include “a history of crime against the person in India”, but dedicated his book to “the people of India” against “their only powerful oppressors, their criminal classes”.

21 Chevers’ approach lent strength to the hypothesis that criminal socialization of a conspiratorial nature among groups was a way of life in British India, a point that found expression in vivid terms in the Indian Evidence Act of 1872. Baxi has argued that the Indian Evidence Act defined the norms of conspiracy as a means of determining guilt in collective terms, by virtue of which the crime of one became the act of another.⁴¹ It was the approver, who in British legal parlance in India enabled the connection between the two. For Chevers, however, it was the toxic substance – detected, analyzed, classified and ordered – which was expected to generate this connection between materiality and criminality. The Evidence Act of 1872 complemented Chevers’ vision by demanding the service of an expert witness when the court required an opinion on scientific matters. While it did not bind the court to consult an expert witness, the latter was expected to produce all the materials – that is the archive of criminal behavior in relation to poisoning – necessary for the court to come to a decision.⁴²

22 It is noteworthy that Chevers’ urge to explain crime as a social phenomenon on the basis of the investigation of material traces of manufactured toxic substances led him away from viewing any particular social group as more criminal than another. In India, he wrote, “in the absence of what they regard as rightful authority”, the people held “customs and ancient sanguinary laws” as “just and absolute”. Given that most were also (in his view) uneducated, poor and frequently armed, and that “the belief of women’s virtue or man’s honesty does not exist among them” he argued that pathological criminality, cutting across religion and caste, was a function of residues of primitivism that was literally traceable to tribes.⁴³ Drawing on the report of the Committee on Prison Discipline (1838), he concluded that most of the crimes in the country were committed by persons whose “tribe have done the same out of mind, and they are almost as naturally the result of birth as another man’s honest trade”.⁴⁴ As part of immense confederations, these people were prone to treat crime as a “business”, bereft of any moral obstacle.⁴⁵

23 Chevers’ materialist approach to the social pathology of crime, whereby things identified as toxic vegetable poisons found their way into the entrails without leaving traces powerful enough for the experts to detect, betrayed the problem of negotiating individual personhood with putative notions of collective property. In the early years of the following century Risley (1915) would further develop this alleged connection between primitivism, materiality and every day practice in India, focusing on fetishism and the role of “the shaman, the medicine man, the wizard”.⁴⁶ As will be argued in the following section, however, Chevers would himself (drawing on the beliefs outlined in this section regarding the socially-determined nature of criminality in British India) actively participate in institutionally shaping a role for social science in defining the relationship the social life of poisons and suspected manifestations of poisoning.

Staging Equivalence

24 The 1870 edition of Chevers’ manual included a significant number of native voices from those in government employ – from Kanny Loll Dey at the Chemical Examiners’ Department and Medical College, to Assistant Surgeons posted in the small town charitable dispensaries, who provided factual evidence for his study of crime in India. He also had at his disposal a wide range of experiences, personified by the likes of Budden Chunder Chowdhury (born in 1814) as well as Dey (born two decades later). Both were diploma holders of the Calcutta Medical College and both had subsequently joined the Bengal Medical Service under the EEIC.⁴⁷ What is striking about this information order was the increasing presence of salaried native bureaucracy, well

versed in English as well as Bengali and Sanskrit or Persian, to translate textual and testimonial material into authoritative knowledge. By the time Dey had risen through the ranks, exchanges between British and native officers had expanded beyond official collegiality to inhabit spaces which encouraged service beyond official duty. Hence, the social appeared as a universally applicable taxonomy, as a “token” for translating acts like poisoning as criminal behavior by rendering it amenable to broader sociological analysis of filially generated criminal motivations.⁴⁸ The Bengal Social Science Association was established in order to develop an integrated understanding of social scientific exchanges between natives and British bureaucrats on themes such as law and jurisprudence, education, health, trade and economy across the cities and suburban towns.⁴⁹

25 This Association was founded in 1867 by James Long and Mary Carpenter to draw the attention of the native elite towards the need for reform based on scientific understanding of what ailed the natives as a society, in moral terms.⁵⁰ Having been penalized and imprisoned for criticizing the government’s role in the Rebellion of Indigo Peasants (1859), Long formed the idea of a social science association along the lines of the British Social Science Association, but not restricted to the study of commodity production and exchange pursued by political economy.⁵¹ The Metcalfe Hall (named after Charles Metcalfe, Governor General of India) was allocated for discussions, and the Association received a rich library based on collections of officers in British employ to undertake this task. Native participants, both as office bearers as well as intellectual contributors, dominated the organization because as experts in the employ of British government they were expected to contribute in the form of written essays, based on both textual and experiential evidence and presentable in forty five minutes. Moreover, a steep 12 Rupees membership subscription ensured that only those who were gainfully employed found a spot in the association.

26 At its very inception, a regulation was proposed that nothing should deter the members from expressing their opinions on social questions or deliberating on any customs that went against the norms of progress. This produced adverse reaction from the likes of Rajendralal Mitra, a polyglot and an educationist who argued that the association did not have the authority to express opinions on any and every social question, or for “taking action for amendment of *any* law or custom of the country”.⁵² Some opposing members left the Association once the majority had their confidence in the motion. It was reiterated that the Association’s primary objective was not to be an agitating body even though reform of the natives was its primary concern. Dey and Maulavi Abdul Kareem, another close associate in Chevers’ work, remained in the association as office bearers, lending strength to the vision of reproducing the social consensus of natives on reform within the association itself. In 1870, Chevers joined the association as its President.

27 The Association had to remain bound by law, and could not question or criticize the British government, and these requirements tempered the Association’s norms, within which exchange or translation was prescribed. Translation was of serious concern, as native members were expected to have their vernacular speeches translated into English. Dignitaries like Florence Nightingale felt obliged to have their writings translated into Bengali.⁵³ Moreover, its classificatory taxonomy of social science, which closely followed the model of British social science associations, also called for calibration in accordance with the needs of native society. Thus, “social economy”, which identified the social concerns of an industrial society in Britain, demanded a focus on the Hindu and Muslim family as its object of discussion in British India, along with slavery, charitable endowments, and issues of inheritance.

28 In early presentations to the Association some members, such as Koilaschunder Bose, further qualified the term social economy by focusing on “domestic economy”, arguing that since “economy” etymologically meant “management of the household”, he would study what was intrinsic to the Indian economy – the “laws” of the domestic household.⁵⁴ The social was the place where laws of domesticity found their natural habitat, and Bose chose the “Hindu household” to present his insights on the national traits of a social formation with robust confidence of a participant observer, underscoring his intimacy with it. The name Hindu emphasized the integration of the domestic economy where laws were followed in the manner of

habit. Bose adroitly argued that it was the European writers' inability to discern this integrity, which led them to make broad generalizations based on the study of native physiology as if the social was the mirror of its individual, isolated parts.⁵⁵

29 Unlike Bose, who sought out integrity in the habits and customs of Hindus, an early article by Dey found the habits of Hindu Bengalis wanting in relation to the broad "Laws of Health", ensconced in Sanskritic textual tradition (as well as the insights of European experts who had objected to Europeans consuming excessive heat generating substances like meat on moral grounds).⁵⁶ In his presentation on the uses of narcotics and other stimulants, Dey came to distinguish the use value of the concerned substance between its chemical and botanical properties or content, from the "poisonous effects" that excessive, unmeasured consumption was bound to produce.⁵⁷ In Dey's work, this ranged from substances that could be rendered poisonous, as for instance arsenic or strychnine, noxious gasses emitted from various parts of the native town, to "poisonous principles generated within human bodies due to prolonged abuse of tobacco, evident in their 'catechetic look' and often greenish-yellow tint of the blood".⁵⁸ Within this broad scope of pathological manifestation, life could be discovered at its most abject state, demonstrating its vulnerabilities before a nature that was otherwise bountiful with useful resources.

30 The focus of the domestic economy as an object of social scientific knowledge served to construct an authentic realm for rendering familiar what was foreign to the European members of the Association. It also underlined the self-fashioning of government employed native experts in the light of their expertise in diagnosing violence peculiar to the domestic realm (largely unknown to the British justice system) Bankim Chandra Chattopadhyay, a noted Bengali novelist, district magistrate and member of the Association, reportedly responded to an inquiry on *thuggee* and poisoning by highlighting the acts of poisoning not in the highways, but in the deep interiors of native domesticity. Young widows presented the specter of unwanted pregnancies, and had to be poisoned to death to protect the code of honor.⁵⁹ It is noteworthy that Dey too remained far more certain of the sanctity of "laws" produced by social scientific studies, than British laws in India. For him government legislations ranged from being a necessary coercion of limited effectiveness (as in the case restricting infringement of private property into public space for reasons of sanitation)⁶⁰ to being a completely superfluous instrument, which could encourage crime instead of being a deterrent (as evidenced by his observations on the possibility of an act to regulate poisons in the bazaars).⁶¹

31 Dey's efforts towards rendering herbal substances useful, as against "criminal devices", (a distinction that Chevers had also made)⁶² found expression in his Bengali manual on medical jurisprudence, titled *Boidik Byabohar* (1876). Dey's book is perhaps first in a series of Bengali texts on medical jurisprudence, but was written as a *materia medica* of indigenous drugs.⁶³ *Byabohar*, a Bengali rendition of Sanskrit *Vyavahara*, has at least eleven uses; however, litigation or law, one of the meanings available in Dharmashastra has found more acceptability in contemporary scholarship than others. Broadly, *byabohar* seems to mean conduct, or rules and customs which governed the conduct of conduct specific to the branch it qualified.⁶⁴ *Ayurved Byabohar* and *Ayurved Byabohar Bigyan*, true to their names, served the body of medical jurisprudence, the second one more explicitly as the science of applying medicine. Dey chose to highlight the usefulness of the substances through the rules of transaction, in the form of dosages based on the scheme of *materia medica* that he had been initiated through his training. Vedic, therefore was meant to be comprehensive sign of juridical power, but only at the expense of incorporating the classificatory schema of *materia medica*, stipulating doses and rules of prescription, something Dey pointed out was not available in Sanskrit tradition.

32 This exchange generated the possibility of staging equivalence between two views of herbal remedies considered to be fit for prescription – the dosage followed by English authors and that available in Ayurvedic body of knowledge. The aim of the book was primarily to familiarize recent graduates of the Medical College to the world of the kitchen garden where poisons as well as their antidotes took the form of natural resources.⁶⁵ He expected the young doctors to acknowledge the social value of natural flora in common use to defend the poor against the expensive European drugs, which though not without benefits, threatened to disrupt this order.

This pre-occupation with asserting selfhood by returning to the familiar, closer to home remedies, and rediscovering their meanings in the useful practices of past and present to redress the wrongs of British health policy proved to be a lifelong pursuit for Dey.

33 Dey's early efforts at asserting the social value of the common usage of particular substances, and depicting India as a natural habitat for drugs like *belladonna* and quinine, were contested from within the coterie of imperial pharmaceutical and chemical expertise. Works such as, for example, *The Indigenous Drugs of India: or Short Descriptive Notices of the Medicines Both Vegetable and Mineral in Common Use among the Natives of India* (1867) no doubt grew out of his decades of experimentation and cataloguing of vegetable drugs in India, not only to detect criminal poisoning, but also as a curator of numerous international exhibit items representing British pharmacopoeia.⁶⁶ However, in 1897, when his work was revised and renamed as *The Indigenous Drugs of India: Short Descriptive Notices of the Principal Natural Products met with in British India*, George Watt added a rejoinder in the "Preface". Here, Watt stated that while Dey preferred to persist with the term "indigenous drugs" to mean all that was "procurable" in India, whether indigenous to this country or not, the government was of the belief that the word did not do justice to drugs in the British Pharmacopoeia that were naturalized in India, through engrafting or transplantation, but were not indigenous to this country.⁶⁷ Watt reported that as a compromise, Dey had agreed to remove "*in Common Use among the Natives of India*" from the title in favor of "*met with*", an exchange that may not have been received well by Dey, considering the tone of his presentation at the Indian Medical Congress in 1894.

34 George Watt, Dey's co-speaker at the "Pharmacology and Indian Drugs Section" had argued that the Sanskrit medical corpus, for all its worth as a historical source, was of little value for identifying medicinal plants as the present day dealers were not aware of them.⁶⁸ Dey agreed with Watt in his insistence that for botanical identification of medicinal plants and classification, one would have to revert to the imperative set by Orientalist William Jones for botanists in India – to abandon the Linnaean table, and get familiarized with vernacular names peculiar to that particular region.⁶⁹ Sanskrit texts, as he was discovering latterly were valuable for knowledge of techniques of transplantation and collection of medicinal plants.⁷⁰ However, he also appeared to be using vernacular as an embodied connection – a social body between Vedic Hindu knowledge of antiquity and present day when he classified a wide range of communities under the rubric of "professional castes" across the country, the "humble communities", such as "the *Musheras* of Central and Upper India, the low caste *Maules*, *Bediyas*, *Bagdis* and *Kaibartas*, *Pods*, *Chandals*, and *Karangas* of Bengal, and the *Chandras*, *Bhils* and *Gamtas* of Bombay".⁷¹ As a social body they represented the foundations of Dey's political economy of health – embodying usages in the form of customs waiting to serve as cheap labour for facilitating what he conceived to be a perfect balance of welfare and commerce.⁷²

35 As his speech at the Indian Medical Congress in 1894 made clear, his efforts to relate natural remedies with domestic uses was shaped by the government's reticence towards popularizing herbs native to India (a point that Watt refuted in a footnote added by him, justifying the government's reticence on account of the proverbial phenomenon of adulteration in bazaar drugs).⁷³ Dey gave a clarion call for regeneration of health of the masses by utilizing the vast range and quantity of pharmaceutical wealth available in the Himalayas. The imagined kitchen garden now relocated to the mountains emerged as the blue print for primitive accumulation of landed capital by the government, with the object of securing health of the nation. Dey offered to provide a plan for undoing the inequality of imperial rule, exhibited in the debilitation of a population despite its possession of vast range of medicinally useful herbs, some of which were regularly exported.⁷⁴ Dey proposed that the government take possession of *belladonna* and *Ipecacuanha* as well as bioprospecting of those as yet unknown especially in the Himalayas. Following the identification of their medicinal properties, the herbs could be made into pharmaceutical preparations, subjected to trial over the population through dispensaries and hospitals, and made accessible in a regulated market. In return, the government could lease out large tracts of Himalayas to drug brokers for supplying roots, leaves and barks of plants from

the “emporium” for India. Government monitored production, he argued, would counter adulteration, or “sophistication” in “country products”.⁷⁵

36 Dey was prepared to offer complete territorial sovereignty to the British government in exchange for the blessings of the industrialization of pharmaceutical drugs as a public undertaking, which would cater to both the domestic and imperial market of patent medicines. The contribution of herbal drugs from India would also, he hoped, allow more say in what was being imported by the British government – asserting his choice of American syrups over British “synthetical monstrosities”.⁷⁶ If Chevers identified communities in some of the least garrisoned parts of the empire as savages, Dey treated them as tamable.

37 Thus Chevers and Dey “discovered” indigenous material practices in relation to objects of toxicological value as a scientific site of inquiry. The salience of their faith in social science, it has been argued here, reflected different predispositions towards laws – with Chevers aiming to fulfil the mandate of Indian Penal Code of 1860 and Dey (skeptical about the effectiveness of British laws in India) responding with the Vedic, the Aryan, and the Hindu as the juridical signature for exchange. Personifying the cause of this extra judicial source of knowledge, Dey chose the platform of the Indian Medical Congress to request his countrymen involved in the export of *Cannabis India* to Britain to refrain from adulteration.⁷⁷

38 Chevers and Dey belonged to a period when medicine, propelled by specialization in surgery, was increasingly making discipline and specialization the cornerstones of the regulation of public health in British India. Chevers rejoiced in his later edition that civil surgeons were increasingly replacing the police as senior jail administrators in the Bengal Presidency, generating the possibility of an archive of medical jurisprudence.⁷⁸ The municipal reforms of 1880 divested the early zamindars, the proprietors of agrarian property since 1793, of their police duties in their respective villages, and were made to support charitable dispensaries and public health. Moreover, between 1880 and 1884, charitable dispensaries were classified according to the requirements of the degree of medical skill demanded by the criminal profile of that district. Areas attracting attention for regularity in cases of poisoning called for the posting medical personnel with competence in post mortem.⁷⁹ Thus, investment in medico-legal science was also a reflection of an administrative refashioning of medical expertise as part of the legal armature of British government. In this context, social science played a vital role in articulating the relationship between the detection of criminal behavior and toxic materiality by underscoring the limits of the British legal guarantee while at the same time reinforcing the authenticity of medico-legal expertise over police records.⁸⁰

39 This foray into the indigenous herbal-medicinal world, subjecting its esoteric beliefs and practices to scientific examination, and reimagining the native body as subject to a new, improved and universal medicine was uncommon among Dey’s contemporaries or near contemporaries. Medico-legal expertise treated the authoritative knowledge of clandestine and criminal practices lurking in the depths of village-India as far more expansive than had been suspected, and the movement of commodities including illegal substances to be much more fluid, capricious and often beyond the reach of British laws in India. In their attempts to uphold the autonomy of judicial discourse, which had historically been a point of contention for British laws in India, medico legal experts like Chevers and Dey’s study of usages and criminal devices not only demonstrated the limits of imperial legislation but also sought a commonsense approach to legality and governance, one that fundamentally challenged the exclusive reasoning of standard criminal jurisprudence followed by the drafters of the Poisons Act later in the century.

The Making of the Poisons Act (1904)

40 Those deliberating on the introduction of a law to regulate the possession and sale of poisons in India were convinced that no law could control the vast range of uses that toxic substances (and in particular, arsenic) were put to, nor be enforceable across the territorial expanse of

British India.⁸¹ The wording of the 1904 Act was eventually to specify its pertinence only to “certain local areas”, wherein licenses for the sale of arsenic were only to be granted “to certain classes of persons” and not simply pharmacists as a profession. Preference for “certain classes of persons” over others was a recognition of the vast number of uses of arsenic in India, unlike in Britain where pharmacists had been the prime target of Arsenic Act of 1851. While responding positively to the proposal for an act for India in 1903, the legislative department had argued that poisons like Hemp, *Stramonium*, Aconite, Strychnia, which were imported into England, grew naturally in India. Moreover, it was pointed out that arsenic was too closely tied to the leather industry to be regulated stringently.⁸² The department was responding to the proposal for an act along the Arsenic Act of 1851 by a special jury, which had been summoned to reflect on the possibility of an act following what many thought was an example of mistrial in the case of *Empress vs. Wagner and Cray* (1894). This jury referred to the speech by Surgeon John Fenton Evans and Chuni Lal Bose delivered in the inaugural chapter of the Indian Medical Congress (1894), to support an India wide legislation, replacing what was widely acknowledge to be an ineffective act of 1866 for Bombay.⁸³ While the final legislation endorsed Evans and Bose’s proposal to focus on bazaars, it chose not to include opium in the select list of poisons. Evidently, the legislators chose to make peace with the interests of the finance department, rather than use it to produce social data on opium addiction.

41 The law treated arsenic as a wholly imported substance, especially from Europe, which was known to be possessed for sale generally in India. Moreover, the law came to privilege arsenic as the normative model for its directions against the circulation of “other poisons” represented by vegetable substances like hemp, *Dhatoora*, Aconite, *Nux Vomica* and *Bella Dona*, which were available in India, but about which the government had little information except medico-legal evidence of their use in homicidal and suicidal cases. The compelling reason behind positioning arsenic as the modular representative of “poisons” was no doubt the availability of traces of paper trail based on excise and customs records of imported substances. In other words, writing was both the expression and the means of registering the presence of arsenic as the object of regulation--the act being an assertion of sovereign right to maximum punishment against the abuse of arsenic with the intent of causing harm.

42 It is noteworthy that the act did not have uniform expectations of obedience to the bureaucratic regime from the indigenous population at large. While medical practitioners and compounders were expected to have a license to that effect, Clause 10 of the act exempted tanners and hide merchants from the paper regime of petitions, attestations and certifications. This was undoubtedly a means of endorsing the exclusivity of writing. However, ironically enough, this immunity ended up being the very source of violence against Chamars (now a Scheduled Caste in India), who were officially classified as hide-workers and leather merchants, and for whom arsenic was a useful and necessary commodity for drying the hide. Their immunity from the regime of paper meant they were often implicated in the sale of arsenic, or for possessing poison in exchange for a share of the product (the hide). Indeed, Clause 5 of the Act declared local government’s absolute power to restrict possession of arsenic, following consent from the Governor General, in “any local area in which murder by poisoning with that drug or the offence of mischief by poisoning cattle therewith appears to it to be of [...] frequent occurrence”.⁸⁴ This clause was followed by one that spelt out the powers that the administration would use, and penalties that would follow were the prohibitions to be breached, especially around spaces with concentration of British administration, in and around cantonments.

43 This duality in the treatment of the Chamar is noteworthy. On the one hand the Chamar was distinguished from other legal petitioners by exemption; on the other hand, the Chamar was identified as a caste group of the lowest orders in Hindu society. The Chamar was after all an untouchable body, occupationally attached to animal corpses and unhygienic surroundings, routinely appearing as suspects in the medical, police and judicial records on cow poisoning. Representing Chamars as the ideal target of legislative violence Risley commented that, despite their exemption

if Government controls the supply and sale of arsenic we shall in course of time very

greatly restrict the Chamar's opportunities of getting arsenic at all; and it is on this rather than on the punishment of mere possession that I would rely for the success of the measure. After all if "the old game of cattle poisoning" is pursued with great vigour in any particular district and things will be made unpleasant for the Chamars and for everyone connected with the lower branches of the trade in hides.⁸⁵

44 This surely indicates how Chamars, though registered as one of the biggest Hindu low caste populations, came to be hunted out in the same manner as tribes, even though they were not part of the list produced by the Criminal Tribes Act, 1871.⁸⁶ The installation of courts in the latter half of the nineteenth century generated the possibility of "tribing" contestations with communities in pathological terms, by rendering them visible in writing as subjects under law.

45 Colonial law, however, claimed a radical alterity in relation to native crimes as legal precedence, as the Wagner and Cray case of 1894 suggests. Indeed, as mentioned earlier, it was the alleged poisoning of W.H Wagner, a European pipe-player, by Mrs. Ellen Wagner, and James Cray in Calcutta in the year 1894, which prodded the government to reflect on the possibility of legislation. A critique by an anonymous author of the manner in which medico-legal investigation during the case was carried out was published soon after the case was dismissed for lack of evidence. Offended by the hierarchical structure of medical and scientific bureaucracy in the British government, and questioning the scientific credibility of British forensic expertise, the author ended up betraying some of the palpable anxieties of British born legal subjects about their right to justice in British India.

Apropos of Dr. Harvey's presidential contention at the late Indian Medical Congress, that it was nothing but fair that government institutions should be officered by government men, we then held that it was *not* fair to the faculty of medicine at large that this monopoly should be reserved for the State and State only, or that laws be enacted depriving a British subject of his rights of *liberty* when that liberty is endangered by testimony from and by a man whose total chemical experience amounts to the enormous period of twenty seven months.⁸⁷

46 The author lamented the fact that Medical College faculty's post mortem report, which had concluded that the victim had died of cholera, had been rejected in favor of the Police Surgeon's deposition that Wagner had died of irritant poisoning. The latter was substantiated by J.F Evans, the Chemical Examiner, who went on to identify the irritant poison as arsenic. The author's outrage was directed particularly at the alleged misconduct of medical examination, betrayed in the investigating personnel's inability to decide whether it was the arsenic that Mr. Wagner was accustomed to take medicinally, or arsenic in the *jilabi* that Mrs. Wagner allegedly served him. It forced the Public Prosecutor to meekly surrender against the interests of justice and science, leading the judge to dismiss the case for lack of evidence, leaving the social status of Ellen Wagner hanging under the a shadow of suspicion.⁸⁸

47 The author also made it quite clear that he was prepared to stake his bets against the Public Prosecutor's suggestion that Mrs. Wagner may have served *jilabi*, an indigenous sweetmeat, smeared with arsenic. The scientific way of investigating the issue, the author argued, would have been to detect the location and extent of accumulation of toxic traces in the body of the deceased. Here, the author found the conduct of Chemical Examiner Surgeon Evans wanting on two counts. For one, he did not save the vomit and excreta for analysis; and secondly, by delaying the examination of viscera, Surgeon Evans allowed the possibility of arsenic being carried, through "natural processes of decomposition", "down to *regions*, where poisoning might have been established from regions where poisoning might have been *legally* accumulated as the result of medicinal administration".⁸⁹ The alleged poisoning, in other words, could have happened after Mr. Wagner's death, rather than before.

48 The anonymous author's insistence that justice was denied due to the laxity of scientific procedures implicated the government for failing to protect the liberty of the defendant, a British subject in India, and her eligibility to be treated as innocent till proved guilty. The faculty had stated in its post mortem report that Mr. Wagner had been taking arsenic medicinally, as directed by the prescription of a duly qualified doctor. Therefore, all toxic accumulations in the corpse were to be treated as legal medicinal accumulation based on prescribed dosage of the

doctor, until and unless proved otherwise. By expressing suspicion of arsenic poisoning, the Chemical Examiner had questioned this very essential ingredient of liberty enjoyed by the British subject in India.

49 Moreover, the author's trenchant critique went beyond implicating Surgeon Evans' for a one off affront against the exclusive rights of British subjects to justice. He asserted that contrary to the legal conventions laid out by the Indian Penal Code, had the defense been allowed to cross examine Chemical Examiner J.F Evans, many such instances of miscarriage of justice could have been avoided.⁹⁰ As a comment on the perverse nature of bureaucratic indiscretion of power allowed by the present administrative structure, the author disclosed an instance of Surgeon Evans' abuse of his official position – where he presented the very report he had prepared in his private capacity for a client as evidence produced by the office of chemical analysts in the court of law.⁹¹

50 Corruption, a ubiquitous complaint against natives had mandated British officers to man the higher posts in administration. However, complaints against constitutional loopholes allowing discretionary use of power in the higher echelons of administration were not new. As far back as 1856 Norman Chevers had observed that there was no means of “embodying” the Chemical Examiner's information into legal evidence, recordable by the court, given the limited presence of European expertise in India.⁹² Chevers had gone on to point out in his 1870 edition that the Law of Criminal Procedure in 1860 had formalized the status of the Chemical Examiner as the unquestionable authority on medico-legal evidence in the court of law in India. He also reaffirmed his agreement with Dr. Mouat's observation – that judicial procedures followed in India would not be able to stand up to the scrutiny of medico-legal evidence pursued in Europe.⁹³

51 Moreover, persistent efforts of the Chemical Examiners to define their work as medico-legal, and not merely medical, show that the British government in India had entered into a new era where sovereign claims over the bodies of its subjects reflected expectations of expertise in chemistry, and general interest in toxic substances. As recently as in 1887, a conflict between the Principal of the Medical College, Calcutta and Surgeon Major Warden, the then Chemical Examiner of Bengal, over their respective jurisdictions had led the latter to state that his office was not accountable to the Principal of the Medical College as the Department was a purely “technical” one, and hence did not share any concern with disease and treatment of patients. Surgeon Warden categorically stated that the Chemical Examiner's Department should henceforth be treated as a department of the government of British India.⁹⁴

52 The Act was therefore somewhat in denial of the endemic British fear that corruption was rampant in Indian society. This had always been the foundational premise of the colonial exercise of legal sovereignty, where the law acted as an artifice for racially differentiating ruling moral predispositions of subjects. The threat to personhood, to liberty expressed by the anonymous author articulated certain long standing tensions within the bureaucracy, which threatened to spill out of the limits of officialdom when called upon to investigate cases of poisoning implicating British subjects. But more importantly, as has been argued, it was also, at the same time a measure of its claims to punish the subject for possession, sale and application of poisons.

53 Both Chevers and Dey, as well as the drafters of the Indian Poisons Act underscored the limitations of the paper regime in the form of licenses and receipts, which the Act introduced as a condition for the subject dealing with arsenic or other toxic substances to be identified as a person. Unhindered by the requirements of a new law, and called upon to preserve law as per the pan-Indian mandate of the IPC, Chevers' medico-legal study took note of the flows of yellow arsenic or *harital* from Rangoon and white arsenic from Pegu.⁹⁵ While Chevers proved with empirical evidence that such flows had pre-British legacy, Dey too, in his characteristic style, described it as an import from China, which was of vital importance for the practitioners of indigenous medicines in India.⁹⁶ The drafters of the legislation categorically reinstated the distant reaches of white arsenic, from Kuming in Yunan, through Bhamo in the Northern Shan States, to the markets of lower Bengal. Interestingly enough, this was also the area which had attracted British imperial interests, especially since Lord Dalhousie named it “ambassador's

route”, for controlling the thriving opium trade, and which for all purposes remained outside the ambit of reality endorsed by British Indian legal regime, even after the final British annexation of Burma, when the Northern Shan States were declared British protectorate.⁹⁷ The drafters shared information about this unofficial route, taking cognizance of the limits of official registers, where arsenic had ceased to officially register as a trade item from Burma following the final British conquest in 1885.⁹⁸ Unlike Chevers, whose narrative on poisoning exceeded the limits of civil socialities and judicial inscriptions into the purportedly wild, less garrisoned spaces, the law made a measured statement of its jurisdiction over toxic materiality.

Conclusion

54 The Poison Act of 1904 stands out as a defective instrument in histories of substances in India, representing “a propensity for inaction and [the] innately conservative role of colonial rule”.⁹⁹ This article has argued for an approach that probes the limitations of British legislation not as failures, but as expressive of the conditions of colonial rule. While the 1904 Act embodied a measured expression of the limits of subjugating the indigenous population as individual actors, it was also a comment on the spatial limits within which the colonial state endorsed its practical legal jurisdiction, as well as the singularity of its pursuit for the objectification of classified substances as poisons. Unlike medico-legal expertise and manuals, which tended to describe both the uses and abuses of toxic substances, the Poisons Act (its very name instructive) conceptualized all toxic substances, especially arsenic, as “poisons”. In this, the Act ran counter Britain’s own legislative lexical practice of representing toxic substances as pharmaceutical and industrial products (as in the case of Arsenic Act of 1851).

55 The relationship between law and disciplines like medical jurisprudence in British India was complex. Investigative police reports and medico-legal manuals took cognizance of the criminal body before the Indian Penal Code did. Social Science emerged as an active ingredient in forging the relationship between medicine and law at a discursive level. It was seen as necessary in order to overcome presumed mendacity as a sign of alterity residing within the structures of colonial administration, and reproduce court room effect, where truth was discovered about a population at the point of exchange of empirical evidence. Appadurai has argued that the colonial bureaucracy’s over-dependence on numbers in weighing truth was driven by the need to counteract this mendacity.¹⁰⁰ Widespread apprehensions of corruption rendered the colonial subject both strange and docile in the colonial *imaginaire*: strange, because seen through the Orientalist lens it was an embodiment of murderous practices but rendered docile by numbers, which homogenized it as part of social types and classes, giving each group integrity that was otherwise lacking. This article has suggested that suspicion of numbers produced an equally powerful frame of criminality in India, and conditioned the colonial mandate for law and order by generating information, which was eligible to stand up in the court of law as evidence, conveying the totalizing thrusts of the bureaucratic colonial *imaginaire*.

56 Dey and Chevers’ collaboration, forged inside the walls of the Medical College and the Chemical Examiners’ office in Calcutta, was typified by their shared interests in the social scientific explanations of crime. This article has contended that colonial bureaucratic and elite spaces were also performative spaces. Scientific expertise provided a necessary premise for imagining the possibility of exchange between the native and the British bureaucrat in a neutral space, where knowledge about the “truth” of criminal poisoning could be examined judiciously. Writing, naming, classifying, ordering – the very idioms of expertise – allowed various professional vocations to speak of the diversity of subjects as a social problem, and offered political rationality, which was compelling enough for subjects to engage with the colonial discourse.¹⁰¹

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Notes

2 Mukharji (2011, p. 28).

3 Arnold, (2016, p. 28). See also Arnold (1993).

4 Latour, (2005).

5 Norman Chevers, an English physician and surgeon of the Bengal Medical Service, was the author of two important works on medical jurisprudence (in particular, Chevers 1856). Having had his first commission in 1848, Chevers became Principal of the Calcutta Medical College from 1861 until 1876. He retired with the rank Deputy Surgeon General and a Companion of Empire award. The second edition, as Chevers pointed out in his third edition, never made it beyond the publisher's office due to the latter's disinterest.

6 Poovey (2002, p. 125) quoted in Nagel (2010, p. 3-27).

7 Chevers (1856 and 1870).

8 Kanny Loll Dey's expertise was well recognized, demonstrated in his nomination as Additional Chemical Examiner of Bengal, a position which he retained until 1872. He also held teaching positions in Chemistry at Calcutta Medical College, Campbell Medical School, and Presidency College. Rewarded for his catalogues of indigenous drugs for imperial exhibitions in London (1862) and Paris (1867), he was made an honorary member of the Pharmaceutical Society of Great Britain. Before he died in 1899, he was nominated as a member of the government-constituted Indigenous Drugs Committee, which produced the Report of the Central Indigenous Drugs Committee (1899).

9 Bayly (1996, p. 373) perfunctorily observes the changing trend of information order 1840s onwards with salaried experts replacing *munshis* in the government, this work studies the implications of this change, along with those of the rise of the ethnographic state, a codifiable legal framework, and a pedagogic apparatus given to social scientific assessments of political resistance as symptoms of native criminality.

10 Judicial/Proceeding 40/ December 1865. From Lt. C. Harvey, General Superintendent of Operations for the Suppression of Thuggee and Dacoity to E.C Bayley, Secretary to the Government of India, Home Dept. (no. 930, dated Shimla 13th September, 1865).

11 Sen, (2012, p. 2).

12 Baynes (1854, p. iv).

13 Chevers (1870, p. 75-87). See also the chapter entitled "Uncertainty of General Evidence in India".

14 Chevers (1870, p. 330).

15 *Ibid.*

16 *Ibid.*

17 Chevers (1856, p. 148).

18 Chevers (1870, p. 148-149).

19 Chevers (1870, p. 734).

20 Chevers (1870, p. 7). See Amin (1995, p. 76-77) on the approver system. The "approver" was introduced in India and the thirteen American colonies. An approver, unlike an eye witness, had to have

been an accomplice.

21 Chevers (1870, p. 108). See also Chevers (1856, p. 69).

22 Chevers (1870, p. 109).

23 Chevers (1870, p.ii).

24 Chevers (1856, p. 8); Repeated in (1870, p. 6).

25 Zastoupil and Muir (1999).

26 Chevers (1870, p. 5).

27 Chevers (1870, p. 689).

28 Chevers (1870, p. iii).

29 Chevers (1870, p. 327-328). Section 328 of the Indian Penal Code (1860) read: "Whoever administers to or causes to be taken by any person, any poison or any stupefying or intoxicating, or unwholesome drug or other thing, with the intent to cause hurt to such person, or rather intent to commit or facilitate the commission of an offence [...] or knowing it likely to cause hurt shall be punished with imprisonment of either description which may extend to ten years, and shall also be liable to fine."

30 Chevers (1870, p. 111).

31 Chevers (1870, p. 742).

32 Chevers (1870, p. 104).

33 Evans and Dey (1895, p. 472).

34 Chevers (1870, p. 728).

35 *Ibid.*

36 Chevers (1870, p. 684).

37 Chevers (1870, p. 6).

38 Chevers (1870, p. 314). See also Arnold (2016, p. 63-71).

39 Morgan and Macpherson (1863, p. 15).

40 Hussain (2003, p. 69-98); Halliday (2010).

41 Baxi (1993, p. 258).

42 Parakh (2011, p. 69-98).

43 Chevers (1856, p. 8) and (1870, p. 6).

44 Chevers (1870, p. 11).

45 Chevers (1870, p. 166).

46 Risley (1915, p. 220-21). See also Pietz (1985, 1987 and 1988).

47 Watt (1896).

48 As is evident from Chevers' use of the terms social and sociological, he did not reflect the British social science association's privileging of social scientific over sociological Goldman (1987).

49 *Transactions of Bengal Social Science Association*, "Rules", v (1864). In fact the Association advocated its spread by creating branches in the suburban towns to generate a body of knowledge about everyday practices of eating, sleeping, getting therapeutic cure, modes of occupation and worship.

50 Vallee (2007). Florence Nightingale joined as a member during the Presidency of Norman Chevers in 1870. Chatterjee (1995, p. 15) describes the Bengal Social Science Association as the embodiment of a vision of an un-fractured civil society, cutting across race or creed, and ideologically aligned to English Utilitarianism and French positivism. This author, however, treats the Association as an historical location for the translation and exchange of ideas between British and native elites, in order to study the manner in which colonial law conditioned their associational bondings.

51 Goldman (1987, p. 142) points out that the British Social Science Association's preoccupation with social science was driven by its belief that British political economists had "illogically narrowed their investigation by ignoring all views of moral duty".

52 *Transactions of the Bengal Social Science Association*, "Introduction" (1867).

53 Vellee (2007, p. 233).

54 Bose (1868, p. 121-143, v.1).

55 Bose (1868, p. 123, v.1).

56 Dey (1868, p. 113, v.1).

57 Dey, 100, v 2 (1869).

58 *Ibid.* 104.

59 West Bengal State Archives (hereafter WBSA) Judicial/Proceeding 57-58/April 1866.

60 Dey (1868, p. 100).

61 WBSA, Judicial/June 1874/Proceeding B, 237-242/no. 13.

62 “The custom of the Garrows and Nagas of cutting of and carrying away the heads and hands of both friends and enemies slain in the raids...is rather a usage than a ‘criminal device’ Chevers” (1870, p. 72).

63 See also Sub Assistant Surgeon Debendronath Ray (1889) and Sanyal (1917). Both Ray and Sanyal wrote Bengali text books of medical jurisprudence to serve the students of Dhaka Medical School and Campbell Medical School.

64 Chatterjee (1995, p. 95). Chatterjee argues that the word *byabohar* was mostly used to mean litigation. However this study suggests a much wider application. Also see Hemendrachandra Sen “Pitter Byabohar”, cited by Mukherjee (2016, p. 322). While Monier-Williams emphasizes the relationship between *vyavhara* and legal procedure, Apte’s dictionary demonstrates that only one of the applications of the word relates to *vivadh* or conflict. Broadly, it means both “business” and conduct of business. Even within *Dharmashastra*, *vyavaharapadas* has a complex organization, based on the commentaries of *Manu*, *Arthashastra*, *Yajnavalkya* and *Narada* which cannot be narrowed down to dispute. See Olivelle (2018, p. 291). I am grateful to Drs. Meera Vishwanathan, Aniket Jaaware and Deepak Mehta for their observations on *vyavahara*.

65 Dey (1876).

66 Muir “Prefatory Memoir” in Dey (1896).

67 Watt in Dey (1896, p., viii-ix).

68 Presidential Inaugural Address delivered by George Watt, Indian Medical Congress, (1894).

69 Dey (1896, p. 526).

70 *Ibid.*

71 *Ibid.*

72 *Ibid.*

73 Dey (1896, p. 527). Watt’s refutation of Dey’s claims of government negligence over the popularization of indigenous drugs in dispensaries was incorporated in the second edition of Dey’s book (1896, p., xxxi), where his speech at the Indian Medical Congress was reprinted as “A Review of Indian Pharmacology”. Bhattacharya (2016) has demonstrated with considerable evidence that while contemporary critics attributed adulteration of medicinal substances in the bazaar to the absence of legislation, in reality the bazaar was represented by availability of drugs in various potencies as well as “multiple layers of manufacturers, agents and distributors”. Also see Chakrabarti (2006).

74 Dey (1896). Among the drugs exported to the West at the time were Opium, *Aconitum Ferox*, *Nux Vomica*, Indian Hemp.

75 *Ibid.*

76 Dey (1895, p. 527).

77 *Ibid.*

78 Chevers (1870, p. 10). John Fenton Evans, for example, attained the rank of Surgeon-Major in 1860 and retired from the Indian Medical Service as Deputy I-G of Hospitals, in November 1870. He is known for his work on convicts in the Jails of Lower Bengal. See *The British Medical Journal* (1897, p. 629).

79 WBSA Municipal/4-5/May 1884.

80 Benjamin (2013, p. 243).

81 National Archives (NA) Legislative/16-46/Jan 1904.

82 NA. Judicial/Home Department/236-240/August, 1895.

83 Evans and Bose (1895, p. 467). Major John Fenton Evans was the Professor of Pathology at the Calcutta Medical College. A highly decorated officer, during 1890s he held the post of Professor of Chemistry at the Lahore Medical College, Professor of Pathology at Medical College in Calcutta and Chemical Examiner to the Government of Bengal. Chuni Lal Bose became the Additional Chemical Examiner of Bengal under Surgeon Evans and went on to become the Chemical Examiner of Bengal in 1915. See Arnold (2016, p. 114).

84 Clause 5(1), Indian Poisons Act of 1904.

85 55, Legislative/ 16-46/Jan 1904/NA.

86 Rawat (2012). The significance of this claim can be gauged from Rawat’s work, which conclusively shows the identification of Chamars as traditionally leather workers, even as they continued to hold agrarian tenures. However, whereas Rawat reads miscarriages of justice in cases of cow poisoning

against Chamars as a deviation from legal norms and expressive of the increasing degradation of their status in British India, this work demonstrates how Chamars came to be constituted as persons in association in medico-legal discourse, and excluded from the bureaucratic paper regime by the Indian Poisons Act of 1904.

87 *Ibid.* (p. 48-49).

88 *Ibid.*

89 Anonymous (1885, p. 48)

90 *Ibid.*

91 Anon. (1885, p. 48-49).

92 Chevers, (1870, p. 324-326).

93 *Ibid.*

94 WBSA. Municipal/ Heading –Miscellaneous/Proceedings: 44-45/ March 1887.

95 Chevers (1870, p. 110).

96 Dey (1896, p. 37).

97 Christian, (1940, p. 173-191).

98 *Report on Trade and Customs* (1875). Also see *Report on Trade and Customs* (1868).

99 Arnold (2015, p. 64).

100 Appadurai (1994).

101 Scott (1995) has argued that colonial political rationality produced a court room effect, which would induce the subject to conduct oneself not just out of constraints, but also to appreciate the norms by participating in it.

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