

BOOK REVIEW

THE TRUTH MACHINES: POLICING, VIOLENCE, AND SCIENTIFIC INTERROGATIONS IN INDIA (2020)

BY JINEE LOKANEETA, ORIENT LONGMAN,
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—Sayantan Saha Roy*

The Truth Machines, in Jinee Lokaneeta's eponymous book, refer to the new forensic techniques in India's criminal justice system. These techniques promise to make truth finding and police investigations more objective, and revolutionize the criminal justice system in India. Its defenders proclaim that these techniques can make a system riddled with torture, arbitrariness, and violence more humane, rational, and systematic. Lokaneeta, in a remarkable work of scholarship, offers a disquieting picture of these new objects to show that old prejudices continue to thrive, and these techniques are a new arsenal in the perpetual injustices of India's policing system. Her key contention is that the modern Indian state ought not to be viewed as a monolith which has centralized violence; rather its operation is much more tenuous and contingent, and it is only through everyday negotiations among competing actors that the effect of a coherent and powerful state emerges.

The techniques that comprise these truth machines in this book are lie detectors, which detect the physiological changes in a person undergoing questioning, Brain Finger Printing ('BFP') and Brain Electrical Oscillation Signature ('BEOS') which record whether a person has experiential knowledge of an event, and Narcoanalysis which entails injecting a person with Sodium Pentothal to extract information. In the recent past, use of these techniques has progressively grown, and in some cases, they have provided crucial breakthroughs. A distinctive state architecture has also come into place to support the use of these methods.¹ However, the science underlying these truth machines has remained contentious and the evidence drawn from them is often

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¹ Jinee Lokaneeta, *The Truth Machines: Policing, Violence, and Scientific Interrogations in India* (2020) 78.

questionable.² Human rights organisations and even government appointed committees have demonstrated these inconsistencies, and have advised the need for more extensive research before putting them to use.³ But why then are these techniques gaining wider acceptance in India, among the police, the judiciary, and the public? In this book, Lokaneeta offers a vivid account of these truth machines and the forms of violence that they enable through an ethnographic account of the actors, discourses, and institutions which conjure an alchemy of objectivity and efficiency in the face of contrary evidence.

The theoretical locus of this book centers on the State. The conventional Weberian conception posits the state as a monolithic, unitarian institution with monopoly over violence. Indian scholarship on policing has also privileged violence as the primary analytic to understand its continuing abusive relationship with the Indian public. But Lokaneeta focuses on the state's repressive as well as pastoral functions, meaning the functions of the state which are reformist and caring. The Indian state has been well aware of custodial torture, and the inefficiencies that emerges from this violence. What has made these truth machines so attractive is the hope that they would make the task of truth finding more efficient, and policing more humane, by making the police rely less on torture and more on science. But Lokaneeta shows that these dubious techniques, and the very conditions of their emergence and proliferation, have been enabled by highly contingent relations among different actors, institutions, policy considerations, and not necessarily by scientific objectivity. Following Akhil Gupta, Lokaneeta argues that the state lacks any singularity, and the growing use and efficacy of the truth machines is not the product of a state becoming more scientific but the effect of highly contingent interactions among forensic practitioners, lawyers, judges, and the police.⁴ She defines contingency as the "fissures in the state's ability to always monopolize violence successfully." The tragedy of these truth machines is vividly demonstrated by the fact that not only have they failed to reduce the incidents of torture, they have also turned the forensic practitioner into the new enablers of torture.

Torture is an endemic feature of Indian policing and has been so since the colonial period.⁵ The victims of custodial deaths are usually the poor, lower caste, religious and sexual minorities. Based on her conversation with police officers, Lokaneeta identifies two principal reasons for the persistence of torture in India. One primary reason is the duration of custody. Police are required to produce an accused before a magistrate within twenty-four hours of arrest. This means there is a short duration to extract information from an

² *ibid*, Chapter Three.

³ Lokaneeta (n 1) 116.

⁴ Lokaneeta (n 1) 10.

⁵ Lokaneeta (n 1) 29-30.

accused, which often leads to torture. The second cause is the general distrust of the police force in India. Not only do the general public distrust the police, but distrust is also embedded in the penal code. Confessions made directly to the police are not incriminating in the court by themselves. Therefore, the police use torture to extract information which would become the evidentiary basis for a case.

Institutionally, the Indian police have not denied the problem of torture and have made conscious efforts to improve the quality of policing in India. Starting with the Gore Committee Report on Police Training in 1971, the Indian police have prioritized the need for a better trained and rational police force. The report emphasized the role of the police in the development and progress of the country and advised the use of scientific and forensic techniques to improve police work. Science since has emerged as a panacea in curing the ills of Indian policing, especially the problem of torture. The police reformers, the judiciary and the forensic science establishment have argued that scientific methods could be used to extract information, which is not forthcoming, therefore reducing the need for torture. The introduction of the truth machines hence was driven by a distinctive policy concern. The imperative of the Indian police to pursue the path of reform shows that its operations cannot be solely understood through the framework of violence and repression. Rather as a distinctive form of modern governance it has a caring, protective and pastoral dimension. Modern police are often compared to the familial patriarch, the head of the family who disciplines as well as provides care. The authority of such an institution cannot solely be preserved through violence. But the Indian state's objective of reducing torture never followed a straight line, rather it was had to grapple with a whole set of contingencies.

Though forensic science is seen a solution to torture, there is a peculiar homology between torture and truth machines. They are both situated in a long history of legal techniques which have targeted the body as a site for extracting the truth. Torture targets the human body and psyche because it believes that the truth is rooted in the human body. Since the time of Aristotle, this has been the implicit assumption behind physical torture. But if that be the case then truth machines are no different. Truth machines similarly want to read physiological changes in the human body in response to external or internal stimuli for information or for signs of guilt. But reading such signs or interpreting them is a usually a highly subjective affair which makes the scientific objective behind the efficacy of these techniques highly questionable. Lokaneeta shows that from its emergence in early twentieth century United States, these techniques have generated very ambiguous information and have relied upon subjective expertise for their interpretation and validation. But the lack of scientific validation does not mean that that they have lacked cultural power. Despite the controversy around these methods, they offer a "spectacle

of science” which is based upon a “confluence of media, law enforcement, and commercial interests” and this spectacle allows these methods to exercise a continuing influence on the public imagination. The situation has been similar in India where there has been a greater concerted policy push by the government to incorporate these truth machines into the criminal justice system.

The emphasis on science has also opened the space for a new kind of expertise—the forensic scientist. They have probably been the most consequential in the emergence and proliferation of truth machines in the criminal justice system. Forensic scientists are a crucial node in the interrelationship between the police, judiciary, and the scientific establishment and have given the science of truth machines a veneer of objectivity. Lokaneeta compares their work to that of a “cyborg” constantly mediating between the science of the machine and the art of interrogation. Their emergence can be traced all the way to the late 1960s, when lie detector tests were first being used in India. By the late 1980s, their use became more widespread, especially in the Gujarat Forensic Science Laboratory. Forensic scientists also proclaimed their own expertise and training as particularly suited for using these methods, especially if the objective was reducing the incidences of torture in police custody. However, by the 1990s, the National Human Rights Commission started receiving complaints on the invasive use of the methods.⁶ The NHRC recommended that these only be carried out in hospital or laboratory settings which further enhanced the role of the psychologists. But there was persistent tussle over their validity. This was especially true with the use of brain mapping techniques. A Home Ministry appointed committee categorically stated that brain mapping techniques were dubious since they lacked peer review and further research was needed before brain mapping was allowed in police investigations.⁷ But these recommendations were rejected and Lokaneeta argues that the primary reason for this rejection was the uncritical faith reposed on these techniques and their practitioners, which sidelined substantive concerns about them.

Lokaneeta’s ethnographic work on practicing forensic psychologist is particularly insightful. These scientists try to differentiate themselves from the police. They are often sympathetic to the accused and try to ensure that they are not harmed in the process. But the actual work of these state agents is often improvised. The methods of inquiry adopted are often not consistent, and are adapted depending on the nature of the case. It is here that the continuities between these methods and police torture is striking. The objective of a police torture is to create confessions or information which would help the police build a prosecutable case. Lokaneeta shows that that is also the broad objective of the forensic scientist. This is the paradox that lies at the heart of

⁶ Lokaneeta (n 1) 79.

⁷ Lokaneeta (n 1) 91.

India's criminal justice system. On the one hand, the state and its police want to reduce custodial torture. But torture served a purpose in India's criminal justice system. These new truth machines seem to be directed at those same objectives viz. information or confessions which can facilitate the police investigation. The similarity of these goals means that the structural problems of the policing system continue to persist even after the adoption of the truth machines. The arbitrariness of the police is now replaced by the improvised "science" and "objectivity" of the forensic scientist.

India's higher courts have also played a critical role in enabling the use of these techniques. Since the 1980s, the Indian judiciary has been sensitive to the plight of prisoners, as well as abuse and torture in custody. The courts have exhorted the police repeatedly for its use of violence and instituted basic protections for prisoners.⁸ But in the face of this endemic problem, the judiciary has also sought out alternative techniques of interrogation which can reduce the scale of custodial violence in India. The seeming objectivity of these forensic techniques has proved to be particularly attractive to the judiciary. High courts have repeatedly leaned on the problem of custodial abuse as grounds for authorising the police to use these techniques even to the extent of allowing various intrusive use without proper safeguards.⁹ The Supreme Court has been more cautious declaring that these techniques can only be used with the consent of the person under investigation and under medical supervision.¹⁰ However, some of the pressing questions regarding the very reliability of these techniques have been ignored. The judicial consensus seems to be that medical oversight by professionals will minimize the possibility of abuse. Lokaneeta provides convincing evidence that medical professionals are often clients of the state and willing to work as an extension of the police and assist it in rights violations if needed.

This phenomenon is best illustrated in the last chapter of the book which provides an unsettling account of the complicities of the forensic professionals in rights abuse. Lokaneeta provides an account of the aftermath of two terrorist incidents, the 2007 Bombay train blasts and the Mecca Masjid blasts in 2008 in Hyderabad. In both these instances the police wantonly arrested and tortured Muslims without evidence. In both cases, forensic science emerged as a tool of abuse. For example, in one instance an accused was asked random question during a narco-analysis test and physically abused during the interview. The video footage of the interview was then edited to make the answers sound like a confession to the crime. Lokaneeta shows that the police have become adept at manipulating the truth machines.

⁸ Lokaneeta (n 1) 24.

⁹ Lokaneeta (n 1) 97.

¹⁰ Lokaneeta (n 1) 129.

Lokaneeta argues that these truth machines are becoming a part of the cumbersome procedural superstructure of the Indian legal system which primarily hides its systemic brutality. In doing so, it seeks to maintain a modicum of legitimacy for the state. Lawyers, judges, police, and scientists are all crucial elements in sustaining this legitimacy and hiding the violence of the Indian system. Once seen from this perspective, it becomes clear that maintaining this patina of the Rule of Law requires continual improvisation and the truth machines are a part of that apparatus. But violence also has its limits. Despite these manipulations, the police often fail to prosecute people.

The Rule of Law has had a strange career in postcolonial India. As a principle, Rule of Law promises a form of administration which is based on the fair application of rules, an independent judiciary, and a limited and well-defined scope for discretionary governmental powers. But in India, arbitrary powers of the government are well inscribed in the Constitution. Even the fundamental rights chapter gives the state the powers of preventive detention which has been extensively abused. The Indian legal system is based on an interlocking system of “ordinary and extraordinary laws”,¹¹ meaning that on the one hand it has all the procedural aspects which are associated with modern institutional legalism, while on the other, it allows an elaborate set of discretionary powers which makes rights of citizens and under trial prisoners, extremely tenuous. Lokaneeta’s book shows the systemic nature of the abuse of police powers in India. It is not a bug, but a feature of the Indian legal system. By lifting the veil of proceduralism, what emerges is a grim story of violence compounded by a system that is not rational in the Weberian sense. Rather, it is a legal system where competing actors are engaged in a tussle over key objectives of the system and often seek easy solutions to complex problems.

This book is a timely intervention in the study of the modern Indian state and policing. It adds to an already burgeoning literature on state violence in India but unsettles some of the presumptions that has framed the field so far. Lokaneeta provides a vivid account of the emergence of these techniques and how they are changing the justice system. The story of the adoption of truth machines has been highly circuitous and not driven by their scientific merit and strongly bolsters the claim on the contingency of the state. But one cannot help but wonder, to whom does the Indian police and state violence appear as contingent? We are living in a moment where the impunity and arbitrariness of the Indian state truly seems to know no bounds. Journalists, students, activists are being arrested and jailed for years without trial. The police are now applying exceptional laws for the pettiest of infractions in the name of national security. In addition to these horrors, one regularly hears cases where the accused are acquitted after having spent decades in prison. Those who are

¹¹ Lokaneeta (n 1) 140.

at the wrong end of the criminal justice system in India will hardly find the state to be contingent, and rather, its brutality seems unbound. Nonetheless, Lokaneeta's book is a remarkable achievement which demystifies the paradoxes of "scientific interrogations" and demonstrates the continuing violence of the Indian state under the garb of progress.