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BOOK REVIEW

Christian R. Burset, *An Empire of Laws: Legal Pluralism in British Colonial Policy*

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In this refreshingly concise volume, Christian Burset explains a pivot point in the history of British imperial law. Between 1763 and 1774, he argues, key policy makers in Britain moved haltingly away from adjudicating civil disputes under common law and began, more or less consistently, to preserve foreign legal systems. Burset points out that this shift—which is exemplified by Clive's and Hasting's reforms in Bengal and the Quebec Act—was far from inevitable. It rested on a clever amalgamation of discourses of protection and toleration with conservative concerns about national debt and colonial political economy.

Burset's focus on political economy is a particularly useful contribution—though not always entirely convincing. Britain acquired new colonies in North America, the Caribbean, and South Asia in the Seven Years' War. Most were given familiar constitutional settlements. Until 1763, English colonists had been authorized to establish local legislatures and courts administering common law. Though it imposed more metropolitan controls, the Proclamation of 1763 made a similar commitment in newly acquired territories—a commitment that was not honored in Quebec or the Illinois region. English law was also withheld in Indian Country, which was designated as a place without government, and in Bengal, where, after the Battle of Plessy, the East India Company governed as a delegate of the Mughal Emperor.

Burset suggests that paternalist policymakers withheld common law and legislatures because they, rightly or wrongly, equated them with large-scale British emigration and the complexification of local economies. This, they reasoned, discouraged political and economic dependency on the metropole, and thus threatened Britain's solvency and empire's security. So the Quebec Act of 1774 restored French law and preserved gubernatorial rule in order to deter an influx of British Protestant settlers (at least until 1783). In contrast, French

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Grenada (with only 7,000 free residents, many of them People of Color) was given English law and a legislature because it seemed destined to remain a sugar colony with a small population of free settlers.

Bengal is harder to explain in this frame. Unlike inhospitable Quebec, sparsely populated with First Nations peoples, farmers, and traders, Bengal was home to millions of people and had a highly developed mixed economy. It is almost certainly true that the East India Company would not have wanted too many unaffiliated Europeans interfering with its trade monopolies and complaining about taxes as it settled into its tax harvesting monopoly. But arguably much more than extending the common law jurisdiction of Bengal's Supreme Court would have been required to make Bengal a place where Europeans could or would buy up the countryside and settle. European plantations came to India (and Sri Lanka) later and for more complex reasons.

More useful still is Burset's neat division of policy pundits into radicals, paternalists, and moderates. This is, again, most clarifying in the context of Quebec. Burset points out that the passing of the Quebec Act in 1774 was a bit of a miracle. Radicals tended to be anti-Catholic and extremely suspicious of Crown rule. From London to Boston, they cast the limited religious toleration prescribed by the Quebec Act as a papal plot, and its move away from common law and representative government as the end of liberty. Moderates also worried about crown tyranny, but they and many paternalists were leery of the Penal Laws, which they increasingly blamed for perpetual Irish unrest. Burset suggests persuasively that paternalists won the day in Parliament in 1774 by playing on moderate sympathy for Catholics, and casting the Quebec Act as a protective measure for the Quebecois. But, he claims, their real agenda was to truncate colonial economic development and strengthen the power of the Crown in the face of increasingly polarized colonial politics.

Burset overplays the "trickiness" of protection-talk a little in my view. As Lauren Benton and I have argued, a very limited and chauvinistic kind of protection was or became core to paternalist business, as eighteenth-century discourses of slave protection amply demonstrate. And the point of protecting Quebec's Catholics against greedy, anti-Catholic Protestants became clear in Grenada when, in the 1790s, resentment against British settlers prompted free People of Color to rebel against British rule. Lawson and Muller were right to emphasize paternalists' genuine desire to court settlers in Quebec with French civil law and a bare sprinkling of Catholic emancipation, even as they acted to keep the colony under the royal thumb.

Meanwhile, again, Burset's political taxonomy is arguably a little too streamlined for Bengal. I fear he is overly dismissive of Hastings' appeal to India's "ancient constitution" (of which Robert Travers has written so eloquently). I also think successive East India Company governors of all political stripes worked to extract tax efficiently and to keep the peace in Bengal by deploying a profusion of inconsistent and ineffective strategies. In fitting hapless and greedy East India Company officials into his evolving, but ultimately quite neat, ideological categories, Burset risks losing their panic and bewilderment as every system of law and governance they touched seemed to crumble under the weight of their incompetence.

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Perhaps Burset's most important contribution is to turn our attention to the 1770s. While the post-Revolutionary history of the pivot toward post-consular rule has been explored by luminaries like Bayly, Marshall, and Harlow, *An Empire of Laws* reminds us that epochal decisions about the future of the British Empire were made before 1776. These decisions were not just about legislatures; they turned also on what policymakers believed was the emancipatory (perhaps even revolutionary) potential of English common law.

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