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## REVIEW ARTICLE

### EUROPEAN EMPIRE AND INTERNATIONAL LAW FROM THE EIGHTEENTH TO THE TWENTIETH CENTURY

*Edmund Burke and the British empire in the West Indies: wealth, power and slavery.* By Peter Marshall. Oxford: Oxford University Press, 2019. Pp. 272. ISBN 9780198841203. £65.00.

*Boundaries of the international: law and empire.* By Jennifer Pitts. Cambridge, MA: Harvard University Press, 2018. Pp. 304. ISBN 9780674980815. £37.95.

*Worldmaking after empire: the rise and fall of self-determination.* By Adom Getachew. Princeton, NJ: Princeton University Press, 2019. Pp. 288. ISBN 9780691179155. £30.00.

In the 1821 Preface to his *Elements of the philosophy of right*, Hegel famously claimed that ‘philosophy...is its own time comprehended in thoughts’.<sup>1</sup> It is tempting to view history in equivalent terms. After all, historical research usually engages the past under the influence of contemporary concerns. Topics acquire pertinence on account of prevailing values and interests. And yet there is a clear difference between being roused to investigate a subject as a result of its ongoing resonance and interpreting its meaning in terms of current attitudes. This distinction, however, is often blurred, and with it appropriate relations between historical analysis and moral judgement. It may well be that, at the level of political philosophy, each of these activities can be reconciled; but first their respective provinces should be carefully delimited.

The theme of empire, now so pervasive across disciplines within the humanities, offers a conspicuous example of a relic from the past which continues to command attention. There are at least two reasons for this appeal. First of all, the modern West is a creature of the fall of empire—or, more narrowly, of the demise of the formal structures of imperial governance. One legacy of this can be seen in the demographics of the cities and towns of erstwhile colonial powers. Post-war immigration into, say, Britain and France does not exactly correspond with emigration from the colonies, but nonetheless the presence in London or Paris of populations from Algeria, Bangladesh, Ghana, India,

<sup>1</sup> G. W. F. Hegel, *Elements of the philosophy of right*, ed. Allen W. Wood (Cambridge, 1991), p. 21.

Ireland, Morocco, Nigeria, Pakistan, Tunisia, and the West Indies in some sense keeps the ‘memory’ of empire alive.

This fact is related to a second reason why empire still captures the imagination. On account of the fact that a range of major European powers exercised metropolitan rule over disparate populations across the globe, contention over diversity is often assimilated to earlier conflicts between rulers and ruled in former colonial territories. Attitudes of racism are seen as endemic in both contexts, with the result that interest in the legacies of empire overlaps with debates over cultural pluralism. These background conditions inform Peter Marshall’s meticulous study of the Burkes in the West Indies. His book examines the Caribbean careers of Edmund Burke, his brother Richard, and his close friend William Burke together, though he concentrates above all on the activities of Edmund, both as a man of business and parliamentary orator, in his dealings with British possessions in the West Indies.

With a keen historical sensibility, Marshall makes us minutely aware of Burke’s context and his own. The West Indies, Marshall rightly claims, have ‘generally received little attention in Burke studies’.<sup>2</sup> This book dramatically improves that situation. Marshall is surely the leading historian of the British empire of his generation, with a string of publications demonstrating mastery of extensive terrain – covering India, the American colonies, and the Caribbean. With over fifty years of active research behind him, he is also sensitive to changes in attitudes among historians: ‘In a climate of opinion that is generally unsympathetic to European imperial projects, most recent interpretations of Burke and the British Empire tend to focus on his critique of imperial misrule.’<sup>3</sup> Abhorrence of empires has depleted knowledge of how they operated and brought canonical thinkers to the fore who are taken to have similarly deplored them. Marshall has no explicit interest in redressing the balance sheet on empire, but he is concerned to improve our truncated picture of how it functioned, and particularly of how many of its alleged critics in the past actually served it both ideologically and practically.

For about a decade after 1999, a series of learned monographs appeared recovering trenchant criticisms of European imperial exploits advanced by assorted enlightenment thinkers before the nineteenth-century ‘turn’ to empire. From Uday Mehta to Jennifer Pitts, Edmund Burke was accorded a major role in crafting this kind of indictment.<sup>4</sup> More recently, scholars like Daniel O’Neill have sought to reverse this trend by fingering Burke as in fact the man who ‘prefigured the two basic theoretical rationales for British imperialism in its heyday’.<sup>5</sup> Marshall’s book is sceptical about both enterprises. He

<sup>2</sup> Marshall, *Burke and the British empire*, p. 1

<sup>3</sup> *Ibid.*, p. 5.

<sup>4</sup> Uday Singh Mehta, *Liberalism and empire: a study in nineteenth-century British liberal thought* (Chicago, IL, 1999); Jennifer Pitts, *A turn to empire: the rise of imperial liberalism in Britain and France* (Princeton, NJ, 2005).

<sup>5</sup> Daniel I. O’Neill, *Edmund Burke and the conservative logic of empire* (Oakland, CA, 2016), p. 1.

accepts, on the one hand, that Burke toiled for decades, at personal and political cost to himself, in seeking to correct abuses as he saw them. Yet at the same time, he insists that Burke devoted his energies to realizing ‘the possibilities of empire as it was’.<sup>6</sup> This involved accepting what we might call the principle of empire, as well as endorsing the legitimacy of colonial settlement.

The distinct projects of imperialism and colonialism are regularly conflated in debates since the Second World War, as well as in various forms of academic commentary. The gradual acceptance of the phrase ‘the colonies’ for an array of territories that once fell under the authority of the British empire is one reason for this fusion of meanings. But indiscriminate usage is potentially distorting, since it merges in a single utterance the vastly different forms of administration that were established in plantations, crown colonies, the Raj, dominions, dependencies, trusteeships, protectorates, and mandates. It also aligns the processes that brought about these systems of government, and amalgamates the different patterns of settlement (and non-settlement) that characterized Ireland, the Cape, Canada, Australia, the West Indies, India, and West Africa. In the interest of intellectual cogency, historians from M. I. Finley and J. G. A. Pocock to Duncan Bell have urged us to keep these disparities in mind.<sup>7</sup> Others, like J. R. Seeley, drew the same distinctions for political purposes.<sup>8</sup>

In the eighteenth century, a number of West Indian islands formed part of the larger political economy that constituted the British empire under the navigation acts. In Jamaica, for instance, imperial authority was exercised through a House of Assembly elected from among the white settler population under a crown-appointed executive governor. Sugar, coffee, and raw cotton were among the most lucrative exports from the British Caribbean, contributing at once to trade and the exchequer. Production depended on the labour of enslaved Africans afflicted by brutal conditions and continually replenished by fresh imports. Around 240,000 slaves were disembarked onto the islands between 1766 and 1775.<sup>9</sup> Marshall describes Burke’s role in the management of West Indian affairs as ‘an upholder of an empire as he found it’ and ‘a would-be manager of imperial assets rather than a critic of imperial abuses’.<sup>10</sup>

Marshall recounts with impeccable scholarship Burke’s support for William Burke’s plans to retain the island of Guadeloupe for the British empire after

<sup>6</sup> Marshall, *Burke and the British empire*, p. 5.

<sup>7</sup> M. I. Finley, ‘Colonies: an attempt at a typology’, *Transactions of the Royal Historical Society*, 26 (1976), pp. 167–88; J. G. A. Pocock, *The discovery of islands: essays in British history* (Cambridge, 2005); Duncan Bell, *Reordering the world: essays on liberalism and empire* (Princeton, NJ, 2016), pp. 32–48.

<sup>8</sup> J. R. Seeley, *The expansion of England: two courses of lectures* (London, 1883).

<sup>9</sup> David Richardson, ‘The British empire and the Atlantic slave trade, 1660–1807’, in P. J. Marshall, ed., *The Oxford history of the British empire: the eighteenth century* (Oxford, 1998), p. 456.

<sup>10</sup> Marshall, *Burke and the British empire*, p. 6.

the Seven Years' War; his assistance to Richard Burke in his official dealings with Grenada, as well as in his commercial ambitions in St Vincent; Burke's own efforts in endeavouring to free up trade in the Caribbean by intensive work in preparation for the Free Ports Act in 1766; and his sustained labours in cultivating the formidable West Indian lobby in Britain down to 1779.

It does not seem quite right to describe these struggles as attempts to uphold the empire in the West Indies 'as [Burke] found it'. For example, the proposal to retain Guadeloupe instead of Quebec was directed against imperial policy as pursued by the government of the day. Likewise, the Free Ports Act revised the terms of trade between European powers and overseas colonies, and so tried to place the empire on a new international footing. Marshall's real purpose, however, is to highlight Burke's record on slavery and the slave trade. From the late 1770s, Burke poured forth invective against the administration and constitution of the East India Company yet, as Marshall argues, he in effect indulged the prolongation of slavery by seeking merely to reform the trade from West Africa rather than abolish it categorically with immediate effect.

A rough sketch of this case was first put by Eric Williams in 1944, and restated in more detail by Michel Fuchs in 1972.<sup>11</sup> Marshall brings to the discussion still greater resources and acumen, and accordingly his analysis is more subtle. For Burke, Marshall notes, slavery in general was a violation of humanity. In the British West Indies, it was peculiarly callous and degrading. Between 1788 and 1791, Burke committed himself to the unconditional eradication of the trade in slaves, although thereafter the issue became enmeshed in his crusade against the French Revolution. At that point, Burke retreated to advocating reform, the policy he had advanced from 1757 down to the Quaker petition against the traffic thirty-one years later.

Marshall summarizes Burke's outlook during this interim period as encompassing the claim that both slavery and the slave trade – however abhorrent – were nevertheless 'unavoidable necessities for the plantations' in view of their contribution 'to the wealth of the British Atlantic'.<sup>12</sup> Abolition would therefore have to be phased out rather than imposed outright. Burke's exertions in drafting an elaborate 'Negro Code' around 1780 were thus intended to reform a practice with a view to its termination in the future.

The main import of Marshall's argument is that this amounted to a moral failure. Burke was 'constrained' in his response to horrendous exploitation 'by his sense of the extent of the interests involved'.<sup>13</sup> Insofar as the historian's vocation is to assemble evidence to deliver up judgement, Marshall may well be right about Burke's failure. However, the reasons he gives for this deficiency are

<sup>11</sup> Eric E. Williams, *Capitalism and slavery* (Chapel Hill, NC, 1944), p. 41; Michel Fuchs, 'Edmund Burke et l'esclavage', *Réseaux*, 18–19 (1972), pp. 5–16. See also R. W. Smith, 'Edmund Burke's negro code', *History Today*, 26 (1976), pp. 715–23.

<sup>12</sup> Marshall, *Burke and the British empire*, p. 23.

<sup>13</sup> *Ibid.*, p. 229.

open to debate. Marshall detects a conflict between prudent 'statecraft' and the 'imperatives of morality'.<sup>14</sup> For Burke, however, there could be no such conflict since practicality was itself a binding norm. Politics was not an arena of personal morality; but it did demand its own form of ethical appraisal conducted in a world of power and interests and among processes of counter-finality. The goals of utility and humanity were inextricably linked.

The slave trade was conducted in the midst of a European struggle for ascendancy. Discontinuing the trade on the British side would not have led to an end to the supply of slaves. For similar reasons, loss of the islands would not have meant colonial independence, still less a reduction in the demand for slaves. The same determination to compute costs ought to accompany any scheme for manumission of the kind Burke came to embrace in 1788. Before that date, his preference for a phased abolition was never reducible to zeal for commercial advantage but stemmed from alarm about the prospect of havoc in the West Indies and a general descent, as Marshall put it, 'into bloodshed and anarchy'.<sup>15</sup>

Every generation strives to settle its score with the past. The role of the historian in such audits remains controversial. Richard Pares, perhaps the leading British historian of the West Indies in Marshall's youth, registered outrage against blank denunciations of empire in the hope of striking a fairer balance: 'bad history', he wrote, 'can do almost as much harm as the most disastrous scientific discovery'.<sup>16</sup> One of Jennifer Pitts's purposes in her rich and multifaceted study of the interdependence of empire and the law of nations is to challenge a particular specimen of bad history, exemplified by nineteenth-century narratives of the rise of international law. Standard Victorian accounts developed within professional historical jurisprudence commonly descended into triumphalist celebrations of the benign extension across the globe of a European model of relations between states based on the norm of equal and independent sovereign communities. What this picture occludes, Pitts argues, are structural asymmetries justified with reference to hierarchies of civilization.

Pitts sets out her case in six engaging chapters that span the eighteenth and nineteenth centuries. A particular highlight is her careful reconstruction of the uses of the notion of oriental despotism – from Paul Rycout (who depicted it) to Abraham Hyacinthe Anquetil-Duperron (who condemned it). While Pitts shows how the category was used to cast doubt on the bona fides of the Ottomans, she also indicates how Montesquieu employed it subversively to underscore the precariousness of European state structures. Incisive chapters covering Emer de Vattel, Edmund Burke, and William Scott illustrate the diverse applications of the law of nations in the period, including as an instrument in the arraignment of European power.

<sup>14</sup> *Ibid.*, p. 224.

<sup>15</sup> *Ibid.*, p. 225.

<sup>16</sup> Richard Pares, *The historian's business and other essays* (Oxford, 1961), p. 82.

The core contribution to intellectual history represented by Pitts's book is supplemented by what are in effect historiographical chapters which deftly gather assorted histories of international law written across the nineteenth century by G. F. von Martens, Robert Ward, James Mackintosh, Henry Wheaton, Travers Twiss, and Henry Sumner Maine. Some of the claims pressed by this literature are underpinned by a progressivist narrative that privileges European norms of civilized international conduct. In John Stuart Mill, notoriously, this conferred on the more 'advanced' British a right of despotic authority over comparatively 'barbarous' nations. However, for others, like Henry E. J. Stanley and Francis W. Newman, the same narrative provoked criticism of the self-congratulatory resort to the canons of European justice.

Pitts places her judicious readings within a wider 'critical' framework.<sup>17</sup> Here, she draws on an expanding literature in the history of international law as well as on post-colonial critiques of the traditions of European thought. Martti Koskenniemi, Anthony Anghie, and Dipesh Chakrabarty provide some of the intellectual scaffolding, although much of Pitts's detailed work undermines their principal conclusions, above all their assumptions about a coherent 'European' project of empire. Pitts points instead to a complex range of attitudes. The cumulative insights of the book thus sometimes act as a kind of dissident commentary on the more abstract formulations that appear in the overarching apparatus.

Much of the historico-legal and post-colonial material invoked by Pitts might better be described as judgemental rather than critical: at least, instead of engaging in critical self-reflection, it more often pronounces on historic failures in absolute moral tones—above all on the intrinsic iniquity of the European powers and the atrocious record of liberalism, including its 'implication' in the business of empire. Usually, the specific character of liberalism remains hazy and its precise causal relations with empire more or less indeterminate. Censure is frequently expressed in idioms of denunciation developed in the crisis years following the First World War, variously articulated by adversaries of liberal constitutionalism like Carl Schmitt, or antagonists of 'Western' rationality like Martin Heidegger.<sup>18</sup> Versions of these postures resurfaced in France after the Second World War and were gradually popularized among anti-Hegelian thinkers from Michel Foucault to Jacques Derrida, and later repackaged with vestiges of psychoanalysis as post-colonial theory in the United States.

In line with these academic trends, it has become common practice to confuse developmental change with teleology; to equate the normative aspiration to universality with the enforcement of uniformity; and to hypothesize complex political relations into schematic abstractions like identity and

<sup>17</sup> Pitts, *Boundaries of the international*, pp. 15–16.

<sup>18</sup> For Schmitt's critique of the British empire in particular, see *Land and sea: a world-historical meditation* (Candor, NY, 2015), including S. G. Zeitlin, 'Propaganda and critique: an introduction to *Land and sea*', in *ibid.*, pp. xxxi–lxix.

difference or inclusion and exclusion. Pitts's primary objective is more circumscribed: her goal is to query what she terms – following Koskenniemi in the language of Chakrabarty – a form of ‘parochial universalism’ that she associates with the programmes of European empires.<sup>19</sup> Her point is that there are dangers involved in imposing narrow values as though they were generally applicable, and she invokes in her support Jeremy Waldron's commitment to a conception of the law of nations as a vehicle for ‘back-and-forth’ negotiation between abstract norms and particular practices.<sup>20</sup>

Waldron's procedure is John Rawls's ‘reflective equilibrium’ under another name, which ironically is itself a means of conferring general validity on particular ideals.<sup>21</sup> Nonetheless, Pitts is surely right that we should greet ambitious schemes of comprehensive appraisal with healthy scepticism. Self-interest often lurks behind professions of humanity.<sup>22</sup> But the temptations of self-interest include the rewards of self-congratulatory virtue prevalent among post-colonial critics. Missing from such moralizing fervour is any serious reckoning with the restricted ethical resources observable among all-too-human actors generally. It is not surprising that limited imagination and generosity combined with disproportionate might has made relations between peoples across the spectacle of world history both fraught and inequitable.

Adom Getachew examines a slice of that history through the lens of ‘anticolonial thinkers’ who emerged as critics of British rule at various points in the twentieth century. Her geographic focus extends across a transcontinental arc stretching from Tanzania through Ghana to the West Indies – a discrete portion of the empire as a whole. The story is divided into two main episodes centred around the impact of the two world wars. The first episode, beginning in 1917, covers assorted indictments of the European powers in the aftermath of the Treaty of Brest-Litovsk, a moment which inspired renewed commitment to the doctrine of self-determination. The second episode, encompassing the decades after 1945, is characterized by diverse attempts to wrestle with the economic implications of post-colonial self-rule. It follows that, in an important sense, Getachew's book begins with a topic that had been central to Pitts's account of Vattel – namely, the practical meaning of sovereign equality in an age of imperial competition.

<sup>19</sup> Pitts, *Boundaries of the international*, p. 8.

<sup>20</sup> *Ibid.*, pp. 5–6.

<sup>21</sup> Jeremy Waldron, ‘*Ius gentium*: a defense of Gentili's equation of the law of nations and the law of nature’, in B. Kingsbury and B. Straumann, *The Roman foundations of the law of nations: Alberico Gentili and the justice of empire* (Oxford, 2010), p. 286. Cf. John Rawls, ‘The domain of the political and overlapping consensus’ (1989), in Samuel Freeman, ed., *John Rawls: collected papers* (Cambridge, MA, 2001), where he says of his normative framework that ‘it is universal in virtue of its extending appropriately to specify a reasonable conception of justice among nations’ (p. 492).

<sup>22</sup> Pitts, *Boundaries of the international*, p. 15.



In both Pitts and Getachew, there is no reference to empires outside Europe. At the same time, the concept itself functions largely as a means of denunciation. The specific focus of each book is of course perfectly reasonable, but in avowedly critical accounts of the subject its global scale is worth acknowledging. It is unclear, for instance, whether the execration heaped on European ventures should apply to the Ashanti, Assyrian, Benin, Brazilian, Ethiopian, Japanese, Mexican, or Mughal empires. Equally, within Europe, overseas empire is the main concern, with little comparative interest shown in the Austro-Hungarian, Russian, or Holy Roman empires. Nonetheless, Getachew does provide a general definition of empire, which she takes to involve 'processes of unequal international integration that took an increasingly racialized form in the late nineteenth and early twentieth centuries'.<sup>23</sup> The book as a whole strives to give concrete sense to this inclusive depiction.

The resulting specification is worked out in terms of a sustained analysis of anti-imperial nationalism as developed by thinkers, journalists, and politicians including Nnamdi Azikwe, W. E. B. Du Bois, Michael Manley, Kwame Nkrumah, Julius Nyerere, George Padmore, and Eric Williams. Getachew's thesis is innovative in two important respects. First, as she herself puts it, she recasts anti-colonial nationalism as a project of '*worldmaking*' and, more significantly, supplies that enterprise with determinate content.<sup>24</sup> Here, she examines the kinds of federalism developed by Nkrumah and Williams under the influence of W. Arthur Lewis and Kenneth Wheare, and recounts the economic policies of Nyerere and Manley, exemplified by proposals for a New International Economic Order (NIEO) put forward in the 1970s. Domestic schemes for planning and welfare economics, as advocated by Karl Polanyi and Gunnar Myrdal, are shown to have informed their views.

Second, and relatedly, Getachew overhauls dominant accounts of the history of self-determination. Her argument here is detailed, wide-ranging, and sophisticated. She begins by building on Partha Chatterjee's challenge to the idea that the goal of national liberation in Africa and Asia was 'derived' from a model of democratic self-government first formulated in Europe.<sup>25</sup> This amounts to a refutation of claims about the dissemination of nationalism advanced by Hans Kohn, Elie Kedourie, John Plamenatz, and others. For Getachew, the paradigm of the nation-state was not 'diffused' across the globe by Westernized elites as European power receded. For one thing, the so-called Wilsonian moment never entailed a universal right to sovereignty: neither Woodrow Wilson nor Jan Smuts regarded all populations of the globe as qualified to exercise self-government. For another, when secession from empire was advocated by

<sup>23</sup> Getachew, *Worldmaking after empire*, p. 9.

<sup>24</sup> *Ibid.*, p. 2.

<sup>25</sup> Partha Chatterjee, *Nationalist thought and the colonial world: a derivative discourse* (London, 1986).



leaders across Africa, their conception of self-determination was not narrowly national, nor even exclusively juridical.

*Worldmaking after empire* includes reflection on the experience of secession following post-colonial independence, above all the calamitous cases of Biafra and Katanga. These developments posed a challenge to the legitimacy of post-imperial states, which serves to remind us that the world which Getachew presents in terms of ‘unequal international integration’ was a patchwork of inequalities inside hierarchies. The book focuses less, however, on the defects of self-determination as a principle than on its redefinition through a process of appropriation. The concept was, in effect, ‘reinvented’ and ‘repurposed’ – first as a means of convicting imperialism and then to castigate neo-colonialism.<sup>26</sup>

One of the strengths of the book is its acute delineation of international relations theories which fail to attend to structural arrangements that determine the relative standing of states. This involves some sharp assessments of Isaiah Berlin, John Rawls, Charles Beitz, and Philip Pettit. In place of Rawls’s scheme, for instance, Getachew lays emphasis on the existence of ‘a racialized international order’, although the meaning of race and its role in the empire is under-explicated.<sup>27</sup> After all, for Du Bois, as quoted by Getachew, race was an ‘excuse’ for economic exploitation. Similarly, for C. L. R. James the ‘real motives’ for European imperialism were to be found in the ‘quest for markets and raw materials’.<sup>28</sup>

These interpretations of the driving force behind imperialism are standardly applied to the period from the 1870s, and were first canvassed by commentators like J. A. Hobson and V. I. Lenin. Getachew’s explanation is closest to that of the Austro-Marxist, Rudolf Hilferding: ‘the global scramble for colonies [was] fuelled by finance capital’.<sup>29</sup> This proved to be a powerfully influential thesis, though it has naturally been fiercely disputed. However, Getachew’s approach does not involve examining counter-proposals. The book instead tends to present the positions of its protagonists as accurate reflections of the world-as-it-was. The evaluative stance of the book is developed from inside the perspective it narrates. This is bound up with Getachew’s ambition to mine past ideals for their current appeal. That risks instrumentalizing history as a resource for moral education in the present. As we have seen with the other books under review here, such a procedure puts pressure on the relationship between the reconstruction of the past and contemporary moral judgement.

Philosophy is indeed its own time comprehended in thoughts. Like other objects in the world around us, it is a ‘child’ of its time.<sup>30</sup> Yet philosophy, for

<sup>26</sup> Getachew, *Worldmaking after empire*, p. 74.

<sup>27</sup> *Ibid.*, p. 9.

<sup>28</sup> *Ibid.*, pp. 68–9.

<sup>29</sup> *Ibid.*, p. 49. Hilferding’s thesis was presented in *Das Finanzkapital* (Vienna, 1923).

<sup>30</sup> Hegel, *Elements of the philosophy of right*, p. 21.

Hegel, was not a form of static comprehension, but ultimately an exercise in recovery. It can be further argued that accurate recovery does not require us to sit in judgement on the past. Historical political theory, combining past and present judgement, might better proceed by seeking to understand what happened than by isolating transactions of which we disapprove. Critical intelligence could usefully be mobilized to target current assumptions rather than the transgressions of bygone eras. It is right that negative assessments of the present should be informed by a sense of the conditions that produced them. Yet for current political appraisal to have traction, the historical analysis on which it draws is best distinguished from the judgement it enables.

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