



THE COMMON ROOM

Paradox Postponed

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Abstract

A review of Stuart Ward's *Untied Kingdom*

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In a riveting and wide-ranging narrative, Stuart Ward tells a story of Britishness that transcends Britain. From Sagana Lodge in Kenya to the sugar factories of Queensland, from Government House in Rhodesia to the *Komagata Maru* anchored off the coast of Vancouver, Ward documents the 'little death[s]' of 'Britain-in-the-world' (p. 14) from the 1940s to the 1970s.¹ He then takes his readers back to London, Edinburgh, Cardiff and Belfast – deftly providing point and counterpoint in the dialogical process of identity formation or, perhaps more accurately, identity loss. In elaborating the grand aspirations and painful shortfalls of the very idea of 'being British', *Untied Kingdom* does more than trace the end of empire; it highlights the ways in which empire's end has complicated the 'politics of recognition' within the United Kingdom itself.

The ambition of the book lies in the very task of pinning down such a shape-shifting concept as Britishness. As Ward concludes at the book's end, 'at no time during its roughly three hundred years of popular currency did it provide watertight categories of inclusion or resonate uniformly from one constituency to the next' (p. 480). He describes a 'system of logic predicated on the export of English constitutional liberties for the presumptive benefit of all who resided under the British flag', but one so fundamentally flawed in its simultaneous adoption of 'racial, religious and ideological barriers to inclusion' (p. 482) that the flaws often overwhelmed the aspirations. The meaning of Britishness is thus left contextual and contestable.

¹ Ward's time frame mirrors that of the narrative of John Mortimer's *Paradise Postponed* (1985) to which the title of this response alludes.

This paradox of Britishness that Ward highlights is also that of British constitutionalism: How could liberal, democratic commitments operate within and alongside empire? And when, in the face of competing illiberalism, they failed abroad (as they most clearly did), did that failure work a corruption at home? The starkest example of these tensions is found in Ward's chapter on Rhodesia (ch. 9). He explains how Ian Smith's Unilateral Declaration of Independence in November 1965, issued in defiance of the British government's expectations of 'unimpeded progress towards majority rule' (p. 266), reflected certain colonial expectations of Britishness, rooted in long-standing preference for the 'White Dominions'. In this, Ward proposes, Smith claimed to represent the true mantle of Britishness, in solidarity with the British people, if not the British government. At least initially, racialism held some sway; in London, Harold Wilson 'ruled out the use of the British armed forces in the event of a white rebellion' (p. 267), allowing an internally inconsistent, contradictory and uncertain compromise position to take hold between the two governments.

Although politics may have allowed a moral dodge, eventually the question of the legal legitimacy of the usurping Smith regime was presented to the courts. And there, the more pointed question was joined: was *British* justice *white* justice? Was 'white Rhodesia ... an integral component of an organic chain of global British justice, or [was it] a rogue entity' (p. 283)? The Rhodesian judges, educated in Britain, ultimately legitimised the Smith regime by denying the authority of both the Privy Council and the Queen while using the language of responsible government to enforce the white supremacist claims.

This decision marked 'the end of the road for white Rhodesia's British credentials' (p. 285), resulting in a final break with the United Kingdom. The principles of British justice, flouted in Rhodesia, were understood as central to Britishness in Britain itself, eventually outweighing in importance the illiberal and racist elements of the imperial project. But the book is replete with other examples where claims of British (or historically English) liberties are sublimated to racial preferences – on entry to Canada and Australia, and in the evolution of limitations on immigration to the United Kingdom itself (themes that continue to resonate in the politics of migration today).

Ward engages with many of the toughest aspects of the paradox of Britishness, never shying away from the ways in which racialisation and racism impact the story. But he devotes less attention to the meaning of 'English constitutional liberties' and the span and contradictions of British constitutional practice. The conundrum of constitutionalism lurks in the shadows throughout the book, and it may well have deserved being brought into the light. As Harshan Kumarasingham has pointed out, '[s]uch hallowed principles of liberty and highlights of English constitutional history did not effortlessly flow to the empire'.² Nor were they left unaltered by the recipients. How should we evaluate or even understand decolonisation constitutions, with their bills of

² H. Kumarasingham, 'Written Differently: A Survey of Commonwealth Constitutional History in the Age of Decolonisation', *Journal of Imperial & Commonwealth History*, 46 (2018), 877.

rights and claims to democratic inclusiveness,³ written by British civil servants who had never visited the countries in question?⁴ And is there something distinctive about the transition to independence in former *British* colonies, such that we can meaningfully identify a ‘Commonwealth constitutionalism’?⁵

The absence of explicit constitutional engagement is felt even more keenly when looking at the question from a domestic perspective: what does this paradox mean for constitutionalism in the United Kingdom today? How has empire shaped (or how does it shape) British constitutionalism as practised at home? The flexibility inherent in the unwritten constitution has always allowed the imperial constitution to operate at a remove from the domestic.⁶ For example, Paul Scott has recently argued that the Privy Council, in both its political and judicial formations, is the reason that, even today, ‘the UK is able to remain an Empire without being required to acknowledge that fact directly within its constitutional order’.⁷ It is therefore possible (and, by some, possibly preferred) to focus solely on domestic machinations, keeping Westminster and London at centre stage.⁸

Ward’s central contribution is his deep commitment to the global lens – a framing less often used in domestic discussion. In her own recent book, *The Gun, the Ship and the Pen*, Linda Colley suggested that the British Empire was one reason that Britain didn’t develop its own single-document written constitution in the nineteenth century. Because it could draw on its colonies’ resources to avoid raising taxes or conscripting troops at home, Britain did not face the pressures that forced formal constitutionalisation elsewhere.⁹ Colley’s intervention demonstrates well that these constitutional questions are not only for lawyers; historians have an essential role to play. The grand scope of Ward’s project, and the existing element of constitutionalism within

³ See Charles Parkinson, *Bills of Rights and Decolonization* (Oxford, 2007) (discussing British enthusiasm for including bills of rights in new constitutions, notwithstanding ‘hostility’ to the concept for the United Kingdom itself).

⁴ Ivor Jennings, *Approach to Self-Government* (Cambridge, 1956), 1.

⁵ Note, for example, the efforts of the ‘Keith Forum on Commonwealth Constitutionalism’, University of Edinburgh, <https://www.law.ed.ac.uk/research/research-projects/keith-forum-commonwealth-constitutionalism> (accessed 20 Jul. 2023).

⁶ Twenty years ago, Stephen Howe wrote that ‘the emerging historiography of Britain’s “internal decolonization” remains at present empirically weak, conceptually cloudy, and often unhelpfully polarized’. Stephen Howe, ‘Internal Decolonization? British Politics since Thatcher as Post-colonial Trauma’, *Twentieth Century British History*, 14 (2003), 286.

And it is still contested. To my mind, Ward wisely sidesteps the questions of whether the nations that make up the United Kingdom should be considered ‘colonies’ of England – or even whether to think about the process of devolution as decolonisation in any sense – in order to retain the nuances of the ‘far more complex reality’. *Ibid.*, 5.

⁷ Paul Scott, ‘The Privy Council and the Constitutional Legacies of Empire’, *Northern Ireland Legal Quarterly*, 71 (2020), 261.

⁸ Cf. generally H. Kumarasingham (ed.), *Constitution-Maker: Selected Writings of Sir Ivor Jennings* (Cambridge, 2014), 1–18.

⁹ Linda Colley, *The Gun, the Ship, and the Pen* (New York, 2021), 73, 215. For further discussion of Colley’s argument, see Erin F. Delaney, ‘Of Constitutions and Constitutionalism’, *Balkanization* (27 Oct. 2021), <https://balkin.blogspot.com/2021/10/of-constitutions-and-constitutionalism.html>.

his definition of Britishness, would have provided a powerful platform for analysis.

Though his focus is on identity, identity itself becomes quickly enmeshed in the constitutional ramifications of its demands: devolution, Scottish and Welsh independence, power sharing in Northern Ireland, English nationalism, Brexit. Ward convincingly argues that these more 'domestic' unravellings are not a function of an external 'end of Empire', foisting declinism on the metropole. Rather, they emanate from the same central instability of a concept, *Britishness*, whose capaciousness and grand potential ultimately served to undermine its ability to provide meaning. And he suggests, in his final sentences, that the future is bleak for the British state in its current form. Ward does not take the next step, to ask how this 'pervasive sense of an ending' (p. 288) relates to today's constitutional malaise, and whether, or in what ways, British constitutionalism may itself be undone by British imperialism. This is the paradox postponed – and the one with which the people(s) of the United Kingdom will have to wrestle.