

## **Rage for Order: the British Empire and the Origins of International Law, 1800-1850**

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Lauren Benton and Lisa Ford's jointly-written book is slim in size – 197 pages of text, 74 of notes – but expansive in scope and interpretative ambition. It is a dense, complex piece of history, frequently operating on several levels at once. It asks us to rethink the study of international legal history in fundamental ways, not least by redrawing the boundaries between imperial, international, and global legal regimes. The authors pursue these arguments through an exploration of a series of overlapping projects of legal reform which took place within the British empire, and on its peripheries, in the first half of the 19th century. The book's methodological claims are compelling; its contentions about the British imperial constitution are powerful, but not wholly persuasive. Approached, however, as a book about a set of themes – rather than as an authoritative treatment of specific problems – *Rage for Order* represents an immensely significant intervention in a wide range of debates.

The book's methodological proposition is that looking at the evolution of international law through the lens of intellectual history, the dominant strategy in recent scholarship, only gets us so far. Benton and Ford seek to demonstrate instead that the establishment of legal regimes has depended on the cumulative interactions and initiatives of an extensive range of often obscure historical actors. These include, in the cases addressed here, not only bureaucrats, politicians, and judges, but also merchants, rebels, slaves, sailors, and convicts. In other words, the book argues that international law emerged out of a seemingly durable imperial world order as the result of a halting, messy, polycentric set of processes. Benton and Ford aim to show not only that the law played a dynamic role within the British empire, but also that it contributed to the identification and constitution of polities on the empire's fringes. Ultimately, the book seeks to vindicate a conception of the early-19th-century global order as a 'clumsy hybrid creation: regional and global, municipal and international, simultaneously beholden to and exempt from imperial sway' (p. 147).

The authors' arguments about the character of early-19th-century British imperialism are equally bold. Their case here is that a defining feature of the empire during the period c. 1800–50 was a 'rage for order', by which they understand a series of projects intended to impose a particular (broad) set of legal regimes both within and without the (porous) boundaries of the British dependencies. There was no organising genius or

unified vision behind the endeavour: it is to be understood as a tendency, or as a set of linked experiments. This 'rage for order' was in some senses a counterpart, the authors suggest, to the contemporary reassertion of Anglican and aristocratic authority in the empire which C. A. Bayly identified in his celebrated *Imperial Meridian* (p. 3).<sup>(1)</sup> Benton and Ford insist that these interlocking projects of legal reform were not, as other historians have argued, about the advancement of human rights, or of 'liberalism'. Liberal and authoritarian political agendas in fact came to underpin similar positions on the proper shape of the law. Driven by anxieties about varieties of 'despotism', and especially about the petty despotisms exercised by colonial functionaries and magnates, reformers sought to boost the power of the intermediate ranks of the colonial administration and judiciary ('middle power'), and to strengthen the jurisdiction of the imperial centre over arbitrary colonial authority. Order was always the primary goal. The authors argue, more generally, that historians can benefit from turning away from the spectacular imperial reforms and controversies which preoccupy existing work in this area. They contend that by instead paying closer attention to 'prosaic and incremental' (p. 3) attempts to reshape the empire, and to flexible 'vernacular' imperial constitutionalisms rather than statute and case law, we can see just how fundamental 'law talk' was to British imperial governance.

This imposing set of revisions and reinterpretations is outlined in sweeping fashion in the introduction. The rest of the book sets empirical meat around these interpretative bones via case studies. Each of the five central chapters is organised around a pair of cases – variously individual colony-specific episodes, sets of them, or analyses of broader regional dynamics – and these chapters fall into two main groups. The first group deals with constitutional and legal arguments, investigations, and reforms within the empire. The second looks at the role of the law in shaping imperial efforts to project power externally – though the authors are keen to emphasise the interdependency of issues 'inside' and 'outside' of the empire proper.

The book turns first to efforts by imperial authorities to restrict 'despotic dominion' on the part of their colonial subordinates, in response to the 1808 'rum rebellion' in New South Wales, and in a series of scandals about the torture and murder of slaves in the Leeward Islands in 1810 and 1811. The next chapter deals with a flurry of imperial Commissions of Inquiry, c.1820–40: accounts are offered of the two commissions headed by J. T. Bigge in New South Wales and at the Cape Colony, and then of a series of Caribbean commissions running through the 1820s. The final chapter to sit (a little more ambiguously) within the 'inside' history of the empire then discusses how languages of 'protection' were used to justify imperial interventions and legal transformations in Ceylon and in the Ionian Islands.

The 'outside' case studies cover two main themes. The authors deal first with British agents' attempts to assert authority over the oceans, in campaigns against piracy (especially in the seas of the Indian Archipelago) and the transoceanic slave trade. The final substantive chapter discusses ways in which British negotiation and interference helped to render other political formations on the borders of empire politically 'legible'. The two examples addressed here are of state systems centring respectively on Tahiti and on the Rio de la Plata, both given form in part by the efforts of British merchants to expand their trade. The book's concluding chapter then seeks to connect its arguments with larger themes in international legal history, taking us back to the Scholastics and forward to President Putin.

Several of these cases will be familiar to historians of the 19th-century British empire, but the legal focus gives them all a fresh spin. They develop important shared themes, clearly demonstrating the significance of the imperial constitution not simply as a piece of machinery but as a 'fluid vernacular... articulated by very different groups of people for myriad ends' (p. 3) <sup>(2)</sup>; emphasising how the mobility of colonial officials promoted the circulation of legal and administrative philosophies; charting how colonial 'scandals' became vectors for the dissemination of reform ideas; and illustrating how major imperial debates could be driven by personal enmities. The chapters draw on a healthy range of primary sources, with court records and parliamentary and official papers to the fore. Some rely on secondary literature more than others, and particularly on specialist legal scholarship. Whatever their source base, each of the studies blends legal, intellectual, administrative, and political history to considerable effect, unfolding complex dynamics lucidly; the book undoubtedly accomplishes its objective of reconnecting colonial histories, stories of lived

experience, and imperial reform agendas (p. 4). It is nonetheless an issue that some of the studies end up feeling rather self-contained, as if more concerned with their own internal logic than with the organising claims of the book. The chapter introductions and conclusions remind us of the bigger picture, but there are stretches during which the broader arguments can feel elusive.

Taken as a whole, however, *Rage for Order* is a book of exceptional range and insight. Its successes are numerous. At a time when questions of law and legalism are attracting more and more attention from historians of 19th-century Britain and its empire, but still tend to be considered within very specific contexts, its sweep and ambition are particularly welcome. The authors rightly make a virtue of dealing with the early 19th century: it is absolutely true, as they state, that work on international law has concentrated too much on the post-1850 period, and that recent literature has not devoted enough attention to the changing shape of the British imperial constitution in the preceding decades. The book demonstrates clearly that the reform of that constitution provoked extensive debate over a catalogue of fundamental political questions, and that law was at the core of those debates. The book's principal contribution, however, is to present such a persuasive vision of the way legal regimes evolve. It shows clearly that an enormous range of agents contributed to disputing, enforcing, and transforming the law; that imperial and international legal historians must pay closer attention to smaller-scale processes of legal change; and that the origins of international law had everything to do with empire. The case studies strongly support all these contentions.

The book's arguments about the concept and character of an early-19th-century British imperial 'rage for order' are plausible, and deserve to be taken seriously. But here, perhaps unavoidably for such a short and partial study, it does not prove its case beyond doubt. The authors note that the book is programmatic rather than comprehensive (p. 25), and what they present unquestionably opens up important new avenues for future research. There are nonetheless several reasons to be careful with the organising concept of the 'rage for order'.

The fuzzy nature of the book's parameters is the first issue. The authors note that their topic is one without an obvious end-point: but while the rationale behind the c.1800 starting point is made clear enough, they say relatively little about why they choose to close their story in c.1850. In fact, both the pre-1800 and the post-1850 periods are painted with such a broad brush that it can be difficult to make out what was distinctive about the decades under discussion. The bigger issue here, however, has to do with the book's presentation of its case studies. All of them are relevant and interesting. But the authors never explain either the general principles, or the specific reasons, which lie behind their selection. Questions of typicality are never discussed. As a result, it is all but impossible to make out how *common* any of the processes or outcomes described were. Some omissions are particularly striking. There is little sustained discussion of the settler colonies – only the anomalous cases of New South Wales and South Africa are touched upon – and none at all of that great iceberg on which so many imperial generalisations sink, India. Ireland, whether or not it is treated as a 'colony', must surely be relevant to the book's themes, but is also conspicuous by its absence. This issue stands as perhaps the main barrier to accepting the authors' grander general claims.

Further confusion about the boundaries of the 'rage for order' arises when we look at Benton and Ford's attempts to pin down the phenomenon. How coherent should we understand it to be? On one hand the authors speak of the 'staggering ambition' of the rage for order, of a many-sided 'search for legal technologies' through which to structure the empire (p. 83), and of the ways in which people belonging to different social groups and adhering to different visions of politics came to settle on similar solutions to the problems of petty despotism and imperial unrest. On the other hand, they emphasise how 'chaotic' projects of legal reform were, how they were often contingent responses to domestic criticism, how recommendations were often shelved, and how the law of unintended consequences often played a leading role. It is possible, as the authors do, to reconcile these characterisations, though the concept sometimes feels as though it is being stretched thin. But the tension between the two integral elements of the 'rage for order' – namely, *arguments* about how to change imperial political and legal orders, and the considerably more limited change that actually *happened* – is something that needs more discussion. Just how much distance was there between visions of a reformed imperial legal regime, and the balance sheet of material reform

actually achieved?

It is not, then, altogether easy to see how the strands of the book's story 'weave themselves into a *single* narrative about the attempt to change the world through law' (p. 4, my emphasis). A particular sticking point here is the relationship between the 'inside' and 'outside' dimensions of that narrative. The book demonstrates that jurisdictional issues, anxieties about 'despotism', and the ambition to reconfigure legal machinery, played some role in all its varied case studies. But its claim that the interplay between intra-imperial processes of legal reform and projects of extra-imperial assertion was so significant as to render the two inextricable (p. 194) must surely be qualified. The reform programme which lay at the heart of the 'rage for order' within the empire, centred on 'middle power', does not seem to have had any direct connection with efforts to regulate the prosecution of piracy, or the trade of the Rio de la Plata. The authors' vision of a grand and singular, yet many-sided and cacophonous 'rage for order' is stirring: but one wonders whether a more rigorous anatomisation of its different manifestations in different contexts and sub-periods might strengthen the analysis.

So the book demonstrates that legal reform was absolutely fundamental to British imperial government and to the empire's attempts to reach outwards, and further that 'law talk' worked to set agendas and to drive change in ways that existing work has not done justice to. But the authors' proposition that there was a 'rage for order' as a definite process or phase, in which the law was deployed and reshaped in distinctive ways, demands more evidence.

Future attempts to clarify the nature of the 'rage for order' must dig more deeply into the structures and ideas which underpinned the British imperial regime. Benton and Ford are, quite legitimately, chiefly interested in the big conceptual issues, and this emphasis leaves much work to be done. For one thing, the authors say little about the 'dull' bureaucrats at the heart of their story – how were they trained, what influences were they exposed to, why did they think about law and politics in the ways they did? And how did they end up where they were? It must be significant that colonial administrative and legal posts in this period were widely seen as boltholes for the second-rate, and that colonial Commissions of Inquiry often ended up as make-work schemes for men who could not be found jobs at home. We need to know more about the dynamics of the colonial bureaucracy, and about the politics of colonial policy – arguments about imperial law were much coloured by domestic political battles, and Colonial Secretaries and their subordinates often focused more on the vicissitudes of political life at Westminster than on the agonies of colonial governments. We also need fuller excavations of the moving ideas – or in the authors' phraseology, categories of 'talk' ('despotism talk', 'protection talk', etc.) – behind the developments the book discusses. *Rage for Order* usefully outlines these categories but does not dwell on them, presumably because of its desire to distance itself from the more purely intellectual history of international law. But we need further discussion of where these crucial ideas came from, how they intersected, how they changed over time, and how persuasive they were. Finally, comparisons with other contemporary empires would go a long way towards clarifying the distinctiveness of British legal discourses and projects. Did other imperial powers have their own 'rages for order'? If not, why not? And to what rhetorical and political uses did British actors put interpretations of their competitors' activities (an issue mentioned but not developed, p. 5)?

The book is generally very accurate in its facts and precise in its language. It might be noted that James Brooke, a man who displayed little enthusiasm for formal education, did not study at Oxford (p. 140), though the University did later award him an honorary DCL; that T. B. Macaulay spelt his middle name Babington not Babbington, and that he was sent to India not primarily as part of a codifying commission (p. 82) but as Legal Member of the Council; that the authors' Robert Horton (p. 72) was and is generally known as Robert Wilmot Horton; and that Henry Keppel's ship was named *Phlegethon* not *Phelgethon* (p. 117). The word 'evangelists' is employed a number of times to signify (presumably) 'evangelicals'. The book also sometimes deploys names and foreign terms without any introduction. The Colonial Secretaries Lords Glenelg and Grey, for instance, arrive out of nowhere with no mention of the office they held (pp. 110-11). Those who are not well-acquainted with Latin America may be confused by un glossed references to e.g. 'caudillos' (p. 170), while those unfamiliar with Tahitian history will be nonplussed by the mention of

'breaches of *tapu*' (p. 160).

*Rage for Order* is a book that deserves to have major implications both for international legal history, and for the history of modern imperialism. It succeeds in positioning law at the very centre of British imperial government and imperial political thinking in a way that future work will, or at least should, find impossible to ignore. Benton and Ford have presented us with a complex set of problems, and have offered a plausible hypothesis which draws them together; that its organising concept (in this reviewer's opinion) requires further interrogation and elaboration is less a reflection on the success of the (short) volume, than it is on the enormous scale of the task it sets itself. It opens up almost as many questions as it has pages.

## Notes

1. C.A. Bayly, *Imperial Meridian: the British Empire and the World, 1780–1830* (Harlow, 1989).[Back to \(1\)](#)
2. Connections might profitably be drawn here with the agenda outlined in *Re-Reading the Constitution: New Narratives in the Political History of England's Long 19th Century*, ed. James Vernon (Cambridge, 1996).[Back to \(2\)](#)

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