

Flexibility, Discretion and the Rule of Law: Vagrancy Laws in the British Empire, 1824-1858

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My presentation considers the development, dissemination and implementation of vagrancy laws in the early nineteenth century British Empire across four contexts: in England, where the 1824 Vagrancy Act laid out a broad and vague definition of vagrancy; in India, where thuggee and related laws expanded the vagrancy law tradition in the direction of combating perceived violent social unrest; in the Caribbean, Mauritius and the Cape Colony, where vagrancy laws formed one means of ensuring labour control after the end of slavery; and in the Trans-Tasman region, where vagrancy laws defined the boundaries of civilized society. While details varied, from a wide-angled view vagrancy law served a similar role across these different jurisdictions, helping to produce a tractable labouring population and providing ideological support and normative justification for the socio-economic order within rapidly evolving societies. Moreover, the evolution of vagrancy law was closely linked to the evolution of the power of the law as such, suggesting that far from contradictory, the flexibility and discretion inherent in vagrancy law were essential to the 'rule of law's' expansion in the period.

Satanic Ordinances, Fictitious Families, and Legal Dispossession: The Many Lives of the Subcontinental Evacuee Property Law

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Through the 20th century, states have used their (increasing) power to redefine, reconstitute and obliterate the property rights of minority or ‘enemy’ populations. In my proposed paper, I examine the operation of evacuee property norms in Pakistan and India between 1947-55, and demonstrate how laws initially adopted to protect the property of out-migrants after British India’s partition were used to increase displacement and out-migration of minority populations, while simultaneously allowing for rehabilitation of incoming refugees.

Viewing partition through the prism of property rights gives us insights into partition as a set of claims on property and belonging, both by states and their populations. Both modeled on and distinct from laws formulated in the wake of international migration after World War II, I link the use and formulation of evacuee property norms to the making of both India and Pakistan’s constitutions. Through examining Constituent Assembly debates, legislations, ordinances and judicial decisions on institutions created to deal with evacuee property, I argue that the law was key to debates around citizenship and belonging. As constitution-making bodies operated as legislative bodies in the period highlighted, they enabled whittling down of procedural challenges to these laws, ensuring that both pre-constitutional and constitutional guarantees were not available to those who challenged government capriciousness. Judicial acquiescence in this process prevented both owners and those allotted this property from enjoying the rights of ownership.

I show how evacuee property norms and their operation presaged later challenges to property rights, questions of expropriation, and minority rights, even beyond the subcontinent. Indeed, similar laws were promulgated in Goa after Portuguese decolonization, as well as in newly independent Israel, where the ambivalences in the evacuee property legal regime became a blueprint for their own legislation around absentee property, facilitating the legal dispossession of Palestinians.

Penal Slavery in Early Modern Eurasia

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While in the pre-modern West jurists viewed slavery (*servitus personalis*) as fundamentally the product of capture in warfare, in China the conceptual origin of slavery (*nubi status*) was condemnation for a particular crime. But how common was penal slavery in Asia more generally, and was it entirely absent from Western slavery? This paper will explore this question with reference to a variety of European and Asian language sources, and focus equally on criminal law and the lived experience of slavery. In the end, it will emerge that penal slavery was a pan-Eurasian phenomenon, although within the context of highly developed centralized states like China, it took on a particular form and significance. In order to build up a connected and comparative image of penal slavery in early modern Eurasia, the paper will also foreground the perceptions of penal slavery in other historical jurisdictions on the part of Jesuit missionaries who wrote extensive treatises on slave law in early modern Asia.