Jacobites, Hospitality Networks, and the Rule of Law

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By the mid-eighteenth century, Britain was enmeshed in a global empire which used the law to manage interactions between individuals, nations, and cultures, linking London and the colonies in a vast imperial legal web. The "rule of law" became Britain's signature ideology, and a central justification for its imperial claims in this period. Of course, not all groups that were integrated into Great Britain or its empire welcomed incorporation. Political union with Scotland began in 1707/8, but the ties it created between England and the kingdom to the north often frayed as religious, cultural, and economic tensions pulled the English and the Scots in different directions. Throughout the first half-century of the Union with England, many Scots believed they had the worst part of the bargain, and some Scots turned to the Jacobites, espousing support for the restitution of the Stuart dynasty under the leadership of first the Old Pretender (James Francis Edward Stuart, 1688-1766) and then the Young (Charles Edward Stuart, 1720-1788). This resistance coalesced in the risings of 1715 and even more dramatically during the reign of George II in the '45 rebellion when Jacobite troops came within 140 miles of London before their defeat at Culloden.

The history of the Jacobite movement is shot through with hospitality. A network of homes served as meeting houses and way stations that harbored those affiliated with "the glorious cause." This paper explores the role of Archibald Cameron (1707-1753) in the well-known Jacobite Rising of 1745 and the much more obscure Elibank Plot of 1752. Hospitality defined Cameron's role in the '45 when he helped hide Prince Charles after the rebellion failed and then arranged the Prince's escape to France. In 1752 Cameron became involved in what came to be known as the Elibank Plot: a plan to coordinate a rebellion in Scotland simultaneous with attacks on St. James and the Tower of London. Preparations for these attacks fell apart in November of 1752, and Cameron was arrested in Scotland on May 20, 1753.

Cameron was then arraigned upon an act of attainder passed against him and the others involved in the '45, and he was hanged, drawn, and quartered on June 7, 1753. His arraignment and sentence resulted from a manipulation of the English criminal justice system. Despite clear evidence of his involvement in the Elibank Plot, he was tried for a crime different from the one for which he was arrested. Indeed one historian calls Cameron's execution "judicial murder" because the government convicted and executed him for his involvement in the '45 (eight years previous to his trial) rather than for his role in the more immediate Elibank Plot.

My analysis of Cameron's arrest, trial, and execution offers a different perspective on hospitality by comparing it with English claims about the rule of law and equality before the law. Although Cameron's treasonous behavior warranted the government's legal action, he and his supporters objected to the legal maneuver in which he was tried under the old and "almost antiquated" attaint for treason passed in 1746. After an examination of hospitality as it fueled the Jacobite movement, this paper will shift to an analysis of the tension between the ideal of rule of law and its practice in the metropole. If the justification for British imperial rule stood on a platform of a rule of law enjoyed by

colonial settlers in British Canada, Boston, and Jamaica, could the rule of law be withheld from subjects tried in London?

As the Empire expanded, encompassing ever greater cultural, religious, ethnic, and racial diversity, the law strained both to contain and maintain these differences, sometimes contradicting the ideology of equality before the law. I demonstrate that the rule of law, long seen as a signature English achievement, must be understood as the product of that imperial reach and contact with other cultures and peoples. While discourses of barbarity, civility, and lawlessness animated domestic tensions, Britain's internal others were drawn into court demanding the rights of Englishmen and women. I argue that the British ideology of rule of law and the idea that English law justified imperial possession developed in dialogue with events in the metropole. Britain's image as an imperial nation bound by law was formed alongside the violence and the restriction of rights in both colonial *and* metropolitan settings.

When political or economic security seemed imperiled, legal zones in colonial spaces—including for example British-controlled Trinidad—allowed for "the jurisprudence of emergency" giving Britons latitude to act outside the law based on necessity.[1] Eliga Gould argues that Britons believed they carried English law wherever they went, but they envisioned a spatial boundary that marked Britons at home from those in the colonies.[2] Beyond this boundary Britons could engage in forms of violence unacceptable at home. This line allowed colonists to affirm metropolitan norms and customs while they explained and justified the legalities and illegalities in Britain's colonies and their inconsistent and sometimes unlawful nature as emanating from zones of war, chaos, and brutality among people considered savages.

What about the contours of law and legal treatment of those perceived as ethnically, religiously or racially different, "savages" who called London their home in the eighteenth century? Britons were concerned when the law was not applied equally in the metropole because the edifice of imperial imagination (and justification) rested on it. On the other hand, they often advocated withholding such liberties from those outsiders who did not seem to belong. The semantics of "legal pluralism" as defined by Lauren Benton were more difficult to parse in London's streets and courtrooms than in colonial spaces.[3]

Gould asserts that behavior was condoned on the periphery that would have been repudiated in the metropole. To avoid recreating a false division between metropole and colony, we need to ask to what extent this could be true given the mobility and circulation endemic of empire and the co-constitutive nature of metropole and periphery. It may have been much more important to keep up the appearance of rule of law in London, but knowing that various legalities were allowable on the periphery may well have shaped events at home and condoned less universal application of the rule of law and equality before the law.

Archibald Cameron was a victim of the jurisprudence of necessity in the metropole.

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[1] Nassar Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (Ann Arbor: University of Michigan Press, 2003).

[2] Eliga Gould, "Zones of Law, Zones of Violence: The Legal Geography of the British Atlantic, circa 1772," *William and Mary Quarterly* third series, 60 (2003), 471-510.

[3] Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (New York: Cambridge University Press, 2002).

This paper demonstrates the criminalization of hospitality and the metropolitanization of imperial conflicts. It reveals a destabilized metropole unable to function as the solid core in the imperial web. Instead, as an entrepot it ceaselessly cycled the legal problems from the outer zones of law through London's streets and courtrooms. Far from being a beacon of light, a calm eye in the storm, or the solid platform where rule of law and equality before the law were certain, the metropole experienced all of the divisions and contested identities of empire. With the law as their conduit, we see them broken down and dismantled just as they were in the periphery.