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Indirect Rule in West Africa and the Paradoxes of Secular Imperialism

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harnessed the civilising vision of Manifest Destiny to bolster the rise of filibusterism in the region. Representatives in this nascent empire debated whether to make Texas into a state for the liberated slaves who populated the East Coast. Some worried, however, that the annexation of Texas would allow Catholic immigrants, who were depicted as lazy and backward, to tarnish the nation's Protestant work ethic. Since many of today's humanitarian institutions emerged from US efforts to coordinate aid, and to bolster the moral vision behind their interventions around the world, a comparative study of how the United States assumed the mantle of the world's moral police that, in the view of many Britons, once belonged to its empire, would be an enriching piece of research.

Secondly – as Mark Mazower's book *The Greek Revolution* has recently shown – the British and American dispute over the establishment of a favourable definition of the concept of intervention was an important theme in the foreign policy of both of these empires. Given the continued and controversial use of this term in the 21st century, policymakers and historians would benefit from further research on this topic. More broadly, those concerned with the history of ideas and interna-

tional law may consider the ties between this study of humanitarianism and recent interpretations that show that international law was seen as a gentle civiliser of nations.

Finally, in the context of British history, one may use this study to reconsider the relationship between this model of humanitarian governance and the historiographical concept of informal empire, which has recently elicited some debate. The study of the territorial and religious borders of compassion, to wit, the relationship between race and the exclusionary nature of charity on the basis of Protestant and Catholic differences, or the relationship between humanitarianism and philanthropy, are areas that would benefit from further research.

The fact that this book generates insights that can contribute to such a wide array of debates is a testament to the vigour, clarity and creativity behind its ideas. On the whole, this book is an exemplary work on the origins of legal reform and the moral challenges of its implementation. From a comparative perspective, it is perhaps the best single historical study of the 19th-century geopolitical uses and abuses of humanitarian reform. ■

Michael Lobban

Indirect Rule in West Africa and the Paradoxes of Secular Imperialism*

In March 1903, having conquered the Sokoto caliphate and incorporated it into the Protectorate of Northern Nigeria, Sir Frederick Lugard issued a declaration guaranteeing that his government would »in no way interfere with the Mohammedan religion«. By the end of the 19th century, British imperial policy was firmly committed to the notion that the secular power had to be neutral in matters of religion, a policy first announced by

Queen Victoria in her 1858 proclamation to the people of India. However, as Rabiya Akande shows in her important new book, *Entangled Domains: Empire, Law and Religion in Northern Nigeria*, there was something of a paradox in this system of imperial secularism. In Nigeria, under the stewardship of Lugard, the commitment to religious neutrality was accompanied by a system of indirect rule. This policy of governing through local elites

* RABIYA AKANDE, *Entangled Domains: Empire, Law and Religion in Northern Nigeria*, Cambridge: Cambridge University Press 2023, X + 317 p., ISBN 978-1-00-905210-8

using indigenous institutions required the secular government to govern through Islamic institutions and Islamic law and led it to exclude Christian missionaries whose presence might both destabilise public order and antagonise the local rulers who were essential to colonial governance. This led in turn to complaints from missionaries that the colonial authorities were not in fact neutral in matters of religion, and were failing to respect the right to religious freedom.

It was not only Christian missionaries who regarded British assertions of a commitment to secularity as hollow. Historians and scholars of Islamic law have also portrayed British rule as perpetuating a pre-colonial theocracy leading to the reification of Islamic institutions. In fact, as this book shows, the story was much more complex. To begin with, Akande argues that the colonial government was far from neutral when it came to matters of religion. The colonial state itself defined what constituted religious difference and in so doing drew far sharper lines of religious difference than had existed in pre-colonial times. The various groups of non-Muslims in the region – some of whom had jurisdictional privileges recognized in Islamic law in pre-colonial times – were redefined in colonial terms as the singular group denominated »Pagan«, to be contrasted with »Muslim«. Colonial rule therefore accentuated differences between Muslims and non-Muslims and created a hierarchy between them which was much more pronounced than had previously been the case. Within the Muslim community, the imperial co-option of the caliphate institutions also created a distinction between those »good« Muslims who were affiliated to the Masu Sarauta elites through whom the British ruled and their political and theological opponents, who were classified not as religious minorities but as dissenting sects.

Indirect rule also had a transformative effect on Islamic institutions. Rather than freezing pre-colonial Islamic institutions, colonial law redefined Islamic law itself. As Akande argues, a British form of Islamic law was created by a transformative use of *siyasa*, the discretionary power of the ruler in judicial matters. Traditionally exercised for the public good, in accordance with the Shari'a, in the colonial era *siyasa* governance was loosened from the constitutional boundaries set by the Shari'a – as espoused in jurists' exposition in the *fiqh* – to encompass a much wider range of regulation. This was used initially to expand the power

of the emirs, particularly over the *alkalai* (judges-jurists) so that they could implement the instructions of colonial administrators. It was used later to increase the power of the state to reform the law, particularly under the Governorship of Donald Cameron, who was much less committed to the Lugardian model of indirect rule. Akande shows that the passing of the 1958 penal code was the culmination of this process of making a »British Islamic law«. By the 1950s, colonial officials and their advisers regarded Islamic criminal law as backward and wished to implement a more modern code. Islamic law was to be removed from public law and confined to matters of personal law. The new criminal code was based on the Sudan Penal Code, which itself followed the model of the Indian Penal Code. The implementation of this code was portrayed by the British as a legitimate exercise of *siyasa* jurisdiction, exercised not by the emirs (whose powers were by now diminished) but through the central state apparatus. The Colonial Office took care in preparing the ground for the acceptance of the code by Muslim elites by organising study tours in which eminent judges from Libya, Sudan and Pakistan confirmed that such a code could be both modern and Islamic. As Akande explains, this project vested lawmaking power in the legislature: rather than Shari'a legitimating *siyasa*, *siyasa* was used to legitimate the law as compliant with Shari'a, as the state took it on itself to define what was Islamic.

The reforms implemented by the colonial state as essential precursors to independence reflected changing notions of secularism. While being properly Islamic, the new penal code was portrayed as suitable for a secular state, applying equally to all without favouring any group. It was accompanied by the constitutionalisation of the right to religious liberty, which had been called for by Christian groups. They had long thought of the nature of government in Northern Nigeria as being a form of Muslim sub-imperialism supported by the colonial power and they sought to use their non-Muslim identity to make political claims. One manifestation of this was the failed campaign in the mid-1950s to create a separate Middle Belt state. Another was the campaign of Protestant Christians for the recognition of a right of religious liberty, which would include a right to proselytise, which resulted in a provision in the 1960 Independence constitution which recognised a person's right »to manifest and propagate his religion«.

The last chapter looks beyond independence to the debates at the 1977 Constitutional Conference over whether there should be a Federal Shari'a Court of Appeal with jurisdiction over Muslim personal law. The pre-independence reforms had left a Northern Region Shari'a Court of Appeal to deal with such matters, but when Nigeria was divided into component states in 1967 each state was left with its own highest court to deal with such matters. The 1977 proposal aimed to create a court to harmonise decisions across state Shari'a courts of appeal. However, the proposal reopened debates about the nature of secularism. The Muslim proponents of the court saw it as an effort to counter the secularism left by the colonial state, which they regarded as privileging Christians. Christians opposed the proposal which they saw as an attack on the state's separation from all religions. In this process, the rhetorical position of the different parties shifted. Christians who had in the early twentieth century denounced the

ideology of British imperial secularism as a ruse to favour their religious rivals and made loud appeals to be accorded the right to religious liberty now sought to defend secularism and denounced Muslim arguments in favour of religious liberty as attempts to »Islamicize Nigeria«. In response, Muslims denounced secularism, which they associated with a colonial ruler who had supplanted Shari'a law.

This book offers a fascinating study of the nature of indirect rule in Nigeria, and of the impact of the »secular« state on religion. It makes an important contribution to our understanding of the nature of imperial rule in West Africa. It also sheds important light on the aims and impact of secularism, demonstrating that rather than the secular state standing above the religious fray, the »secular« and »religious« remained constantly entangled in complex ways.



Karolyne Mendes Mendonça Moreira

Empowering Voices: African Agencies in Northern Mozambique*

In *Casaco que se despe pelas costas*, Fernanda Thomaz guides readers through the intricate web of relationships between diverse African communities in Northern Mozambique, particularly in Cabo Delgado, and the Portuguese judicial system from 1890 to 1940. The book sheds light on African agency in the face of colonial imposition, meticulously reconstructing the various interactions and legal frameworks on the ground.

The author explains (11) that the title of the book derives from an ancient proverb of the Macua communities, which translates as follows: »The *milando*, resolved by whites in the administration, is like the coat that comes off at the back.« (»Eku-nya, ekasakó; enrureliwa ottulí.«). *Milando* was the generic term used by the Portuguese to designate

the process of resolving conflicts between Africans, usually conducted by local leaders within their own villages. However, with the advent of colonial justice, *milandos* were also conducted by Portuguese authorities. The ironic manner in which Africans referred to the administration's handling of the *milandos*, likening it to shedding a disposable garment, serves as a poignant indicator of African protagonism in the daily redefinition of law. In this sense, the main objective of the book is to portray the ways in which Africans reinterpreted, translated and (re)acted within the colonial world, navigating the constraints imposed by established power structures.

The primary documents on which Thomaz' analysis is based comprise 165 criminal lawsuits

* FERNANDA THOMAZ, *Casaco que se despe pelas costas. História do colonialismo, justiça e agências africanas em Moçambique*, Juiz de Fora: Editora UFJF 2022, 225 p., ISBN 978-65-89512-48-6