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## A Comprehensive Analysis of English Case Law on Colonial Slavery in England

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terminology of international law, the latter has been used as a framework of comparison in her study as well as for identifying the elements creating »a« global normative order (352).

Kemme's study on South and Southeast Asia shows her keen intellect, since the dependencies and peripheries are essential for understanding the global history of international law. In India and the Indonesian archipelago, various normative orders interacted with and depended on each other, each serving as self and other simultaneously. As a normative instrument, treaties and tribute were media that connected the self to the other (37). The homogeneous universality of Christian-European international law hypothesises a dialogic mechanism between one nation »and« its equivalent, so a treaty can potentially convert others into »Us«. Tribute is a gift passing among various political entities to symbolise bilateral relationships

based on mutual interest and respect. The relative centres connect themselves »with« others in a hierarchical order. It stresses dynamic relationships rather than the equality of legal status. Thus, formal inequality leads to openness and diversity (131, 179). How we think about others, »and« or »with« other, lays the foundation for different normative orders. It is necessary to apply some kind of terminology, such as multinormativity, to respond to the epistemological challenge and to understand the dynamics of normative (re-)production.<sup>2</sup> Kemme makes an excellent contribution to rethinking the global order. However, for legal historians of international law, imperial history and regional study on South and Southeast Asia, there is still open space for intercultural dialogues. ■

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## A Comprehensive Analysis of English Case Law on Colonial Slavery in England\*

Colonial slavery in the English Atlantic world continues to spark a plethora of scholarship of varying depth. A large amount of such literature was in response to the landmark case of *Somerset v Stewart*. Recently, Dana Rabin delved into a comparative history of arguments from the *Somerset* case premised on the connectivity between villeinage and slavery and its delineations of property, freedom and »bloodlines«. *Sharp's Cases on Slavery* follows suit – Andrew Lyall, an Irish legal historian and adviser at the University of Richmond's Center for Law Reporting – addresses case law concerning the legal status of African slaves who were brought to England from its colonies. The protagonist of these cases was Granville Sharp, a civil servant and the first English abolitionist. His accounts of the

numerous cases he worked regarding contested slave statuses provided the essential background for this book.

Lyall collated Sharp's manuscripts through in-depth multi-archival research that spanned several locations in the USA and the UK. With the exception of the *Zong* case, which touched on issues of insurance and maritime law, the cases predominantly cover slave status. The personage linking that case to the other cases is the judge, the eminent Lord Mansfield, who is another major figure in the book, as he presided over most of the relevant proceedings. *Granville Sharp's Cases on Slavery* starts with an introduction to all the pertinent cases and figures to provide the necessary foundation for the reader. One is not simply given

2 THOMAS DUVE, *Global Legal History: A Methodological Approach*, Oxford Handbooks Online 2017; THOMAS DUVE, Was ist »Multinormativität«?

– Einführende Bemerkungen, in: *Rechtsgeschichte – Legal History* 25 (2017) 88–101, <http://dx.doi.org/10.12946/rg25/088-101>.

\* ANDREW LYALL, *Granville Sharp's Cases on Slavery*, Oxford / Portland, OR: Hart Publishing 2017, VII, 424 p., ISBN 978-1-5099-1121-9

the cases to peruse but also a vivid depiction of English society and the plights of the blacks therein. In this regard, Lyall draws the reader in, with context, which is essential to those unfamiliar with the intricacies of English case law.

English law's lack of clarity concerning the status of slaves in the American or West Indian colonies is a major theme of this book. The cases illustrated the confusion the judiciary faced in deliberating over various incidents that called a black person's situation into question. It pointed to the law's lack of precedent and inability to properly deal with slave issues. In this vein, Lyall indirectly points out the paradox in the English slavery regime: while slavery was legal in the colonies and was the catalyst for the Industrial Revolution and much economic success for England, the English judicial system and English society were not ready or equipped to deal with the repercussions of the very system that enriched them, especially when these consequences required attention in England. English society seldom experienced much of colonial slavery or its substance. These cases and the reluctance of the judiciary to deal with such matters exposed this fact.

Lyall also explores the notion of slaves as property – an issue that has kindled a wealth of debate and scholarship. English case law was not consistent on this matter either. An array of cases concerning various slave issues in England all touched upon whether owners' slaves constituted property in the colonies. However, each case seesawed between decisions allowing contested slaves their freedom in England and those enabling their captivity and re-enslavement in the colonies. This oscillation went on from 1600s right up to the seminal case of *Somerset v Stewart* in 1772.

The book is not simply about the litigation on the predicaments faced by blacks in England. It also examines the transcripts of the central character of the work, Granville Sharp. Sharp was greatly inspired by the case of a teenaged, battered young black man (*Stapylton* case), which catalysed his study of law and his abolitionist movement. Much of the book depicts the various deliberations and arguments of those involved in this case, especially Sharp's detailed remarks. Through Sharp's tran-

scripts, Lyall exposes the confusion of practitioners over the Lordships' opinions and judgments. The failure to provide a clear stance on slave status within England was due to the hesitancy of the judiciary to upset the »Planter oligarchy« of the colonies, many of whom were their own business associates. Furthermore, this disinclination to decide on the matter also marked their awareness of the profitability of the trade that served their empire so well.

Lyall concludes with a letter from William Blackstone to Sharp, followed by a synopsis of relevant parts of his *Commentaries* on slave status in England. Blackstone's commentaries appeared to provide the basis of Mansfield's judgment in *Somerset*; that is, English common law provided a spirit of liberty, which was an integral part of English constitution, namely *habeas corpus* and foreigners. This *habeas-corpus*-and-foreigners proviso meant that liberty was a right guaranteed for all who set foot on English soil regardless of ethnicity, creed or origin.

What this work omits is an account of the impact these cases had on the colonies. The brief look into Virginian slave law as colonial law, though succinct, lacks insight into slave law in the island colonies. If a report is to be representative of the colonies, it should at least discuss each major slave-holding territory.

Lyall succeeded in allowing the vast amount of primary sources he discovered to speak for themselves. Reproducing the various cases, letters, opinions and transcripts provides the reader with a vivid picture of the complexity involved in Sharp's struggle for justice and freedom for the blacks in England. He also manages to give insights into Mansfield's life outside the courthouse, which enables the reader to understand his judgments and the difficulties he faced in reaching them. The number of cases, some unreported, is extraordinary and will be a boon to legal historians working on colonial slavery. This book augments the extant scholarship on slave status and *Somerset*, as it lends additional sources to further develop and understand these complex legal issues. ■