

H-France Forum

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Laurie Wood, *Archipelago of Justice: Law in France's Early Modern Empire*. New Haven: Yale University Press, 2020. 288 pp. Figures, maps, tables, notes, bibliography, and index. \$65.00 U.S. (c1). ISBN 9780300244007.

Review Essay by Sue Peabody, Washington State University

Laurie Wood's ambitious first book seeks to understand the arrival of law in France's slave colonies of the Antilles and the Mascarenes. She concentrates on the emergence of the *conseils supérieurs*, deliberative bodies with a mélange of judicial, legislative, and administrative functions. This is an enormously important inquiry, essential for understanding the nature of French colonial government across the empire under the ancien régime, and one that has not been previously addressed in English (or, to my knowledge so comprehensively, in French). She draws primarily from the archives of the Ministry of the Marine (housed today in the Archives Nationales d'Outre-Mer), especially correspondence and personnel files, to describe a dizzying network of personalities and institutions that together constituted empire and authority. It is a good beginning, generating a host of questions that will support a new generation of scholarship and debate.

Perhaps the most significant contribution is Wood's situation of the colonial *conseils'* development within two wider contexts: the concurrent establishment of *conseils provinciaux* in France's frontier territories conquered during Louis XIV's Dutch wars, and in comparison with British colonial governments, as part of Lauren Benton's project to understand sovereignty as backdrop to the Age of Revolution.[1] By exploring the *conseils'* similar organization and personnel, including some individuals who moved between these spaces, Wood plausibly supports her claim to a shared political and culture that tied together both Atlantic and Indian Ocean worlds. There was a perpetual tug-of-war between local colonial elites and officials (including the *conseillers*, usually appointed from prominent colonial families), on one hand, and royal administrators, governors and intendants, appointed by the ministry, often seeking dominance over each other. Wood's third chapter, about the two white colonial revolts against royally appointed administrators, in Guadeloupe in 1717 and in Île de France (Mauritius) in 1768, shows how each side appealed to royal power to legitimize its posturing in a local rivalry over resources and honor. This echoes the well-established early modern political culture in France, and would no doubt be supported by expanding the landscape to include continental nodes in the empire: New France, Louisiana, Senegal, Madagascar (briefly an early site in France's seventeenth century imperial network), and India. On the other hand, one might push Wood's line of inquiry further to consider whether the *conseils'* origins in the commercial trading companies and their extensive engagement with mercantile trade transformed the nature of their authority outside of the metropole, or whether elite colonial families merely emulated the strategies of the earlier nobles of the sword and the robe.

Wood's second overarching claim is to challenge Benton's assertion that France's Indian and Atlantic Oceans were "separate legal regions" or "regional regulatory spheres" beginning in the early eighteenth century (p. 175).[2] Here, Wood's focus on personnel and structure to the

exclusion of legislation undermines her argument. Whether one draws from the many ex post facto compilations or archival collections of colonial *arrêts* (acts, both regulatory and judicial decisions), ministerial instructions, administrative ordinances, and royal edicts and declarations, it becomes immediately clear that the same laws did not apply universally throughout France's old regime colonies. In part due to the forces cited by Wood—vast distances, the ineffectiveness of royal power in the face of organized and resourced local opposition, the fragility of communication on paper—each colonial enclave (or “entrepôt,” as she prefers), generated a unique series of regulations or laws. Every so often, the ministry sought to reign in the chaos, most notably in the slave codes of 1685 (Antilles), 1723 (Mascarenes) and 1724 (Louisiana), by pronouncing a consistent set of rules, but in other areas of colonial law (as distinct from the default civil and criminal codes emanating from the metropole), wide divergences could and did occur. This dispersed authority, always couched in terms of royal sovereignty but open to challenge by claiming certain traditional “privileges” and “liberties,” allowed for pragmatic on-the-spot innovation, both before and after the supposedly universal 1804 Code Civil.

Wood's book suffers from a fundamental tension between space and time. On one hand, Wood emphasizes a static spatial orientation, for example, in her description of how law was organized in concentric circles from the archive maintained by the court's *greffier* (chief clerk), to the audience room where the judges interrogated their witnesses and made their public pronouncements, into the streets, and along the roads, into the far rural residences, or carried in letter boxes aboard ships to Versailles. On the other, she narrates the small stories of individual people as they created the political and judicial institutions that mediated their lives, locating these in time.

The central spatial axis of Wood's analysis is a comparison between “the Antilles,” by which she primarily means Martinique, the primary seat of colonial power, with occasional references to Guadeloupe, and “the Mascarenes,” which usually references Ile de France, now Mauritius, and sometimes Île Bourbon, Réunion. Unfortunately, there is no clear justification for why these two sites were selected (as opposed to, for example, the earlier *conseils* of Canada, or the rising power of Saint-Domingue), or a careful evaluation of the representativeness of Martinique or Île de France within the wider empire. This leads to some overgeneralizations, as, for example, repeated references to the role of sugar in “the Mascarenes,” though it did not become an important export crop in Île Bourbon until the early nineteenth century (pp. 25, 42, 141, 153, 166). Or, “Mascarene counsellors were most often named from the merchant elite rather than the planter class that dominated the Antillean councils” (p. 53), and “women were scarce in the Mascarenes” (p. 166), both misleading claims when it comes to Île Bourbon. I suspect that specialists in the histories of Guadeloupe, Guyana, French India, Louisiana, Senegal, and New France might cringe at other of Wood's generalizations about French empire. In any event, such claims should not be accepted at face value.

Wood's spatial orientation makes it hard to pin down the causes and effects of historical change, leaving open a host of fascinating questions for further research. Tables 1 and 2, listing the dates of establishment of France's *parlements*, *conseils provinciaux* and *supérieurs* from the thirteenth to the late eighteenth century clearly support her argument that these courts are fundamental to an imperial expansion that took place simultaneously on the continent and overseas. The *conseils provinciaux* were all established at France's imperial frontiers, where the French population was

relatively small (a few hundred to a few thousand) and predominantly male. When were the lower courts of first instance established? Did the system of appeal operate differently in regions with established indigenous legal systems than in places where the indigenous population was non-existent or rapidly annihilated? Wood asserts that formal legal training became the norm for colonial lawyers “in the middle of the eighteenth century,” citing evidence for Martinique (p. 35). Was this true throughout the empire? And why did Martinique (1761) and Île de France (1778, 1781) begin to require lawyers to provide evidence of their training (pp. 36, 38)? Were there local incidents or rivalries that prompted the counsellors to act? Or was this the result, as Wood hints (p. 43, n. 59), of the exile resulting from Maupeou’s battle with the Parlement of Paris ca. 1770?

How did marriages to colonial white or mixed-women with property (including slaves), especially widows, figure into the career trajectories of these colonial “themistocrats” (legal rulers, as Wood styles them) (p. 56)? Why was judicial torture abolished in the Mascarenes and Saint-Domingue before it was in the metropole (p. 61, n. 3)? Was it ever banned in Martinique or Guadeloupe? How did judicial authorities learn of standing legislation, whether metropolitan or colonial, especially before the publication of compilations? Did they have private legal libraries? Did the *greffiers* maintain adequate and accessible collections? Or did legislation actually bear on their decisions? Why did a white Martinican man feel entitled to claim ownership of a freeborn mixed-race woman and her two children in 1776 (pp. 79-84)? Is there a larger pattern of white men asserting powers over freeborn women of color in the late 1770s? [3] Did vacant estates by *petits colons* contribute to the accumulation of property (land, specie, slaves) by more established members of the colonial elite through the operation of the *conseils* (pp. 166-167)?

As one can see, Wood’s curiosity inspires a web of questions for further researchers. Her work is a stimulating read, and surely sets the stage for a host of comparative legal studies of French colonization and decolonization, from the early modern period to the present.

NOTES

[1] Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (Cambridge: Cambridge University Press, 2010).

[2] Lauren Benton, “Legal Spaces of Empire: Piracy and the Origins of Ocean Regionalism,” *Comparative Studies in Society and History*, 47/4 (2005): 700-724.

[3] Jennifer L. Palmer, “‘She persisted in her revolt’: Between Slavery and Freedom in Saint-Domingue,” *Social History/Histoire Sociale* 53/107 (2020): 17-41.

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