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Nick Cheesman

Opposing the Rule of Law. How Myanmar's Courts Make Law and Order. Cambridge, UK: Cambridge University Press, 2015. xiii + 321 Pp. [Cambridge Studies in Law and Society]. ISBN 9781107083189. Price: USD 99.00 (hardback).

Few things can have been as exciting to Asia watchers in recent years as democratization in Myanmar. A landslide election win by the saintly Aung San Suu Kyi in November 2015 promises to reverse decades of military rule and bring back the rule of law. If any country needs the rule of law it must be Myanmar—it rates near the bottom of the scale on that score in any international comparison. A book that lays bare the history of ideas behind that central legitimating principle in the campaign by the former political prisoner should therefore throw much light on Myanmar's democratic transition.

But Nick Cheesman's book is much more than a handbook for democracy activists in and outside of Myanmar. It describes a complex and intractable reality that prevails in most postcolonial countries. The rule of law lives at once as an emancipatory idea in the minds of their long-suffering citizens, *and* as a key element in the discourse of legality employed daily by their authoritarian governments. This seeming contradiction demands innovative intellectual work. It would have been easy to write this book as a long list of absences—of independent judges, objective police, and accountability mechanisms—*ergo* absence of the rule of law. Such an analysis, however, is ultimately not very fruitful. Far more relevant is an analysis that asks: Why does the rule of law retain so much currency in a place that has for so long abused it? How is an emancipatory concept such as this put to work to produce an immobilizing form of authoritarianism?

Most of the recent rush of books on Myanmar rely on just a few well-worn English sources. They tend to recycle conventional ideas about Myanmar's institutional failures. By contrast, Cheesman has examined thousands of Burmese language court documents. They mainly date to the routine authoritarianism that preceded the first signs of transition in 2012. He has analyzed these thoughtfully, following the flow of their language.

He concludes that the abuse of the notion of the rule of law does not demonstrate its failure; instead, it represents a discourse that needs law to justify the efficient and unchallenged functioning of power. The ideas go back to Jeremy Bentham, who first idealized a universal, scientific criminal law that was managed by skilful, disinterested officials. The British applied this idea in India (of which Myanmar was a part) mainly with a view to policing a dangerously volatile population. The conflation of 'rule of law' with 'law and order' thus has colonial origins. In nine well-written chapters Cheesman first

develops the history of this conflation in Myanmar until the present day, and then examines its operation in the legal system. In every case, the law plays a political role to strengthen government authority. Particularly gritty chapters look at the use of judicial torture by police to extract confessions, the demand for money by judges to ensure outcomes, and the recruitment of criminal gangs to help police demonstrations. All these institutions are deeply engrained and will take a long time to change.

An interesting counterweight is the chapter on citizens who use the same rule of law trope to lodge official complaints against the government. This leads to the last chapter, which points out that the 'rule of law' remains a radical egalitarian ideal for the citizens of Myanmar. Only by unpacking its conflation with 'law and order' will they realize its emancipatory power.

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