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Henry Stanley's *The East and The West* (1865): reflections on civilization and identity by Britain's first Muslim peer

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Abstract

The 1856 Treaty of Paris exemplified the 'organized hypocrisy' (Krasner, 1999) of sovereignty in the nineteenth century. On no occasion were the double standards of the Western powers more visibly on display than when the Ottoman Empire was welcomed into the 'Concert of Europe'. Such a gratifying political gesture was clearly inconsistent with the extraterritorial privileges still held by European residents in the Middle East that continued to undermine the sovereignty of the Ottoman Empire. Even the empty promise of a grand conference on modifying 'the Capitulations' failed to dispel the unease over this ambiguity in the minds of some Victorian liberals. Prompted also by fears that consular jurisdiction in China and Japan was to blame for a series of wars in East Asia, the issue of extraterritoriality suddenly became a fierce political controversy in Britain. This paper explores the reflections on 'civilization' and identity that developed in Westminster debates and through the press in the 1860s, with particular focus on an 1865 pamphlet entitled *The East and the West: Our Dealings with Neighbours*. Edited by Henry Stanley, scholar, diplomat and Britain's first Muslim peer, this series of essays reveals some of the pressing issues arising from everyday concerns over jurisdictional control in Mediterranean port cities like Alexandria and East Asian treaty ports such as Shanghai and Yokohama. In some respects, they address themes strikingly reminiscent of challenges that continue to face multicultural societies today.

Keywords: east, consular jurisdiction, civilization, identity

Introduction

As the Crimean War drew to a close, the strategic imperative for Britain, France and Austria was to ensure a solid bulwark against Russian ambitions in the Mediterranean. This desire for a strong ally on Russia's southern border led to the unprecedented step of a non-Christian state being welcomed into 'the Concert of Europe'. In the Treaty of Paris in 1856 the Ottoman Empire was 'admitted to participate in the advantages of European Public Law and System.'¹ Although a grand gesture, it exposed a deep fault line in nineteenth-century international relations. Membership of the European club implied full sovereign powers, but was inconsistent with the extraterritorial rights still held by European states within (and compromising the sovereignty of) the Ottoman Empire. Conscious of this ambiguity, a sweeping caveat promised a multilateral conference on extraterritoriality to be held in Constantinople.² The conference never took place, and further treaties in the 1870s after fresh conflict with Russia only entrenched the existing framework, perpetuating the 'hanging sovereignty' or 'sovereignty in abeyance' that characterized the last decades of Ottoman rule.³

In a global order centred on a parochial 'inner circle' of civilized states, joining the Concert of Europe was thus a hollow victory for Turkey.⁴ Yet such was the organized hypocrisy of sovereignty in the mid-nineteenth century.⁵ Under the special concessions known as capitulations, foreign residents in the Ottoman Empire remained beyond the reach of local justice by claiming protection from their consuls. Initially conferred as gifts of all-powerful sultans, such as Suleiman the Great to the king of France in 1535, Europeans often saw these capitulatory privileges more as inherent rights.⁶ Montesquieu, among others, had fostered a belief that the barbarous laws used by oriental despots to enslave their own subjects entitled them to nothing less. Fears of alleged tyranny and torture also justified the stipulation of similar privileges as Western powers made terms with other ancient civilizations such as China and Japan.

The aim of this paper is to explore how awareness of these underlying contradictions in the international order were identified and articulated in European political discourse. The focus is on mid-Victorian society as the rapid expansion of Britain's trading empire led to several flashpoints, often involving gunboat diplomacy, which made the guiding principles of foreign policy a matter of public interest. Although still in a minority, critical voices did emerge, in contrast to the mainstream of opinion that supported colonial expansion, and they laid some of the foundations for subsequent critiques against imperialism. The key example selected for examination here is *The East and the West*, a collection of essays edited by Henry E. Stanley, Britain's first Muslim peer, and published in 1865. First, some background on Stanley's unusual career and cultural outlook is essential to understand his own perspectives on British foreign policy. Next, a summary of the growing concerns over the existing system of consular jurisdiction highlights the political context in which he produced these ideas. As we shall see, his analysis was often informed by his personal experience of conditions in the Middle East. It was not just an indictment of British policy, moreover, but engaged with broader themes such as European self-awareness and identity. At a time when Europeans increasingly placed their own civilization in a separate category above that of the 'semi-civilized' or barbarous East, Stanley's aim was to highlight the injustices of the divisive political system then prevailing in Mediterranean port cities and beyond.

Britain's first Muslim peer

Henry E. Stanley came from a large, aristocratic English family that had a reputation for being full of eccentric intellectuals, and known for their outspoken opinions on religion. One of ten siblings, he was born in 1827, the eldest son of the second baron Stanley of Alderley, and so heir to a large estate in Cheshire, besides a second estate on Anglesey Island in Wales. From an early age Henry was considered odd; his poor hearing made him quite reclusive and he found his relatives overpowering. It was the world beyond this English family life that fired his imagination; his mother spoke of his 'Africa mania', and he requested a book on Arabic at the age of twelve. Henry went on to study the language at Cambridge for a year before taking a clerical job in the Foreign Office. There he was deeply influenced by Foreign Secretary Lord Palmerston and particularly his outlook on the Eastern Question. Suspicious of Russian ambitions, Palmerston's support for the Ottoman Empire lay behind the foreign policy that took Britain into the Crimean War.⁷

The young Stanley was so disheartened when his mentor was replaced at the Foreign Office that he considered standing for Parliament, but his father intervened and secured him a diplomatic post abroad instead. It was his own choice however, to decide the location – the British Embassy in Constantinople. He performed his tasks so competently that in 1853 he was placed in charge of the consulate at Varna in Bulgaria, and from 1854 until 1859 he was secretary to the British Legation in Athens. After the Crimean War and the Treaty of Paris he accompanied Sir Edward Bulmer, British Ambassador in Constantinople, on a tour through the Danubian provinces to supervise elections in Moldavia and Wallachia. Stanley thus had extensive experience of Muslim communities and the cosmopolitan society of port cities like Constantinople. From early on, however, he expressed ambivalence over the behaviour of British officials, complaining that his fellow diplomats behaved "as if Turkey belonged to them".⁸ Already he was acquiring a reputation for avoiding the company of Europeans. In his view it was the Christian population, exploiting loopholes in the system of consular protection, that was responsible for much of the crime in Constantinople, a theme he later developed in *The East and the West*.

Stanley was already tiring of his duties as a diplomat and longed to travel and study. As the eldest son he also had the means to do so through the financial support provided by his father. His multilingual training, moreover, gave him both the appetite and skills to pursue a scholarly career. Besides several European languages he spoke Arabic, and had some Turkish and Persian as well. His first publication in 1854 was a translation of a Chinese manual compiled by French Jesuits, which he hoped would help students of the language and be useful to merchants, missionaries and diplomats. His academic interests had emerged as early as 1850 when he joined the newly formed Haklyut Society, for which he subsequently edited several volumes of travel journals. He was also a longstanding member of the Royal Asiatic Society, which he joined in 1858. It was in 1859 that he made his break from the diplomatic service, travelling first to Egypt and then Arabia before heading east via Ceylon to Penang. Although he tried to keep a low profile he did not avoid the attention of the colonial press, and as a result his father ended up reading in the *Morning Post* that he was "living with a certain Sheikh Salim Bangadie, speaking Arabic and avoiding the company of Europeans. Is he mad or what is he?" The one feature that particularly caught the eye of the press, however, was the sensational news that this son of a British peer had apparently converted to Islam along the way.⁹

It is not clear exactly how and when during his travels Stanley became a Muslim, but he had clearly developed some sympathy for Islamic culture and doubts over Christianity for many years already. Apparently to save his family embarrassment he half-denied his conversion on his return to Britain in 1860, but he did not waver in his faith, and became, what his longstanding friend Wilfrid Blunt called 'a sincere Moslem without parade'. His family was shocked, however, and his father furious, so to escape from tensions at home Stanley spent most of the next decade on the continent. He secretly married abroad as well, for as he told his mother, he could never marry an Englishwoman. His wife Fabia was a Spanish Catholic, but they were married with Muslim rites first in Algeria in 1862 and, as there was no British consul present, again in Constantinople two years later. Stanley never told his father about Fabia but after his return to England they were also married at a registry office in London, and finally in a Catholic service in 1874 to soothe her feelings (although after her death it emerged that all these services were invalid as she had another previous marriage to someone else). Together with Fabia, he spent most of the 1860s living in Geneva, and it was during this time that he compiled *The East and the West*.¹⁰

Stanley was contemplating further travels to Bengal and then China, but on hearing news of his father's death in 1869 he promptly returned to Britain and took his place in the House of Lords as the country's first Muslim peer. It had always been his ambition to pursue a parliamentary career, and he campaigned with energy on issues such as the welfare of Muslims, Sikhs and Hindus in India. His poor hearing did not help, however, and he spoke with such a quiet voice that, despite his lively intellect and well-researched speeches, his opinions carried less weight than they probably deserved. His influence was certainly felt at his Alderley estate, however, as he took a great interest in agriculture and land management. This probably contributed to the increasingly conservative views that he held in later life as he went on to speak in favour of protectionism and, interestingly, against the disestablishment of the Church of England. Indeed, he always took great care in managing the churches on his estates; on one occasion, for example, he stipulated Islamic tiles in the renovation of a church in Anglesey, but still allowed depictions of human and animal forms. He also attended church, seeing Christianity as a 'sister faith' of Islam, but he prayed towards Mecca five times a day. It is unclear whether or not Stanley observed Ramadan, but he was teetotal and closed down all but one of the public houses on his estates. He died in 1903 and was buried with Muslim rites, with the Imam from the Turkish Embassy in London officiating at the funeral.

The Issue of Consular Jurisdiction

By the time the young Stanley first arrived in Constantinople, some Western diplomats and journalists had been expressing their concern about consular jurisdiction for several years already. As the Earl of Aberdeen commented on the Treaty of Adrianople in 1829, “the commercial privileges and personal immunities which are secured by the treaty to the subjects of Russia appear to be at variance with any notion we are able to form of the authority of a sovereign and independent prince.” His primary objection may have been Russian encroachment, but he betrayed the European cultural superiority of his age when he explained, this was “in consequence of the defective administration of justice by the Turkish Government”.¹¹ Now in the 1850s there was growing awareness that the multilayered existing arrangements were not just detrimental to the Ottoman authorities but were inhibiting trade as well. In 1854 the correspondent of *The Times* in Constantinople called the system of capitulations “a great subject for reform,” as foreign powers exercised jurisdiction ‘in a manner inconsistent with national independence and sovereign rights’.¹² Later that year he admitted, “it is true that the Turkish courts are execrable,” but he still deplored the fact that, “in every district of the empire, in every class of society, the influence for evil of capitulations and legalized foreign interference is to be observed.”¹³

The labyrinth of overlapping jurisdictions created by the capitulations was notoriously open to abuse, and consuls themselves were not above corruption. In Egypt, for example, there was a “state of judicial chaos” as seventeen different authorities administered seventeen different codes. As early as 1837 the US consul-general there described “the perversions of consular Jurisdictions „as he noted that a vice-consular post had even been put up for sale.”¹⁴ Another peculiarity of the system appears in an apocryphal story from around this time:

We read in *The Roving Englishman in Turkey* an account of the bewildered Pasha whose duty it is to grant an audience to the members of the consular body in the capital of his Government, and before whom visitors in Austrian, French, Russian, and English uniforms make their appearance one after the other until, on a close inspection, the Pacha [*sic*] recognizes one and the same man under a variety of disguises.¹⁵

John Ninet, one of the contributors to Stanley’s *The East and West* pointed out a similar story: “At Damietta, for instance, there is a Levantine bent down under the weight of consular dignities; he represents at third hand fifteen or sixteen nations.”¹⁶ This was one of the so-called trading consuls, men of variable reputation who juggled careers in diplomacy and business to carve out careers as ‘professional’ borderlanders. Many of these officials did hail from the countries they served, but the exemption from tax and immunity from local laws that consular status conferred was a sufficient draw for others to become ‘legal chameleons’ with multiple identities.¹⁷

By the time the Paris Peace Conference was held in 1856, European diplomats were sufficiently aware of these issues to recognize the ‘harmful’ effects of extraterritoriality, but their promise of a conference at Constantinople never materialized. Meanwhile, British attention shifted further east, where the problem of consular jurisdiction seemed at the heart of fomenting ‘Victoria’s little wars’. The growing workload of the Colonial and Foreign Office was compounded by the creation of the Raj after the Sepoy Rebellion (1857-8), the extension of trade down the Yangzi Basin after the Second Opium War (1856-60) and the opening of treaty ports in Japan (1859). At this high watermark of ‘free trade imperialism’, there was general confidence in the benevolent, even civilizing, influence of Victorian commerce. At the same time, a range of dissenting voices emerged, expressing concerns about where this endless burden of government responsibility might lead.

A key theme in this wider debate was non-interventionism. As a former employee of the East India Company, J. S. Mill wrote an influential pamphlet on the subject in 1859, expressing his misgivings about the incoming Raj.¹⁸ Similarly, Richard Cobden and other advocates of free trade roundly criticized the recent spate of far-flung military campaigns. Although not necessarily against imperial expansion, the Cobdenites stressed that the path to lasting peace and prosperity lay through commerce rather than war. A series of incidents in East Asia involving consuls, however, suggested some inherent problems with Britain’s foreign policy. Liberal politicians began questioning the government’s attitude to non-Christian states, a theme that led to questions on the nature of ‘civilization’ itself.

In February 1857, for example, Cobden’s vicious attack on the outbreak of the Second Opium War in the House of Commons contributed to the downfall of Lord Palmerston’s government (albeit only temporarily).¹⁹ Contrasting the mistreatment of China with the respect accorded to Western states, he condemned the handling of the Arrow incident as “illegal on our part”. Had it occurred in Charleston, he alleged, the British Ambassador in Washington would have made his official on the spot apologize to the Governor of South Carolina rather than demand redress as had occurred with Commissioner Yeh in Guangdong. In the House of Lords, meanwhile, the outspoken Earl Grey also drew upon his long experience in the Colonial Office to question the system of consular jurisdiction now being extended across East Asia. He doubted that the Treaty of Tianjin signed by Lord Elgin in 1858 would ensure peaceful relations, insisting that British merchants who chose to make profits in China should do so at their own risk. As he pointed out, “if they were only to be judged by English laws, when there were no English police, no English courts, and no means of maintaining order and peace, it was utterly impossible that abuses should not prevail.”²⁰

Grey’s campaign gathered momentum after a new book published in 1863 revealed details of the chaotic situation in the foreign settlement at Yokohama. This was *The Capital of Tycoon*, a two-volume memoir by Sir Rutherford Alcock, British Consul-General in Japan. Again Grey pointed out, “if France had a right to say that French subjects should not be punished for offences committed in England save by the French authorities, when France had no tribunal here, you would not, I maintain, preserve London from plunder for twenty-four hours.”²¹ However much they issued notifications on behalf of their governments, therefore, British consuls stationed in such treaty ports were

unable to control the apparently unruly foreign community there. Grey's comments in the House of Lords in July 1863 were also prompted by his reservations over a Royal Navy squadron that was then on its way to seek redress from the Satsuma domain for the murder of a British merchant near Yokohama the previous year. The question of consular authority was a key element because it had been suggested that the reckless behaviour of the victim, Charles Lennox Richardson, had directly provoked this fatal attack.²²

The bombardment of Kagoshima that followed in August 1863 led to a fierce debate in Britain. As Cobden pointed out, 'it is precisely as though an enemy should lay Bristol in ashes because an individual had been murdered on the highway between London and Brentford.'²³The following year, moreover, there was a threat of further reprisals as Royal Navy ships formed part of an allied squadron organized to punish the Chōshū domain for firing on foreign shipping. An anonymous pamphlet on *Diplomacy in Japan* criticized British foreign policy and Earl Grey again took up the issue in July when he recommended "that the treaty should be revised" so as to scale back the system of consular jurisdiction.²⁴ He was appalled by the fact that the British consul at Kanagawa had to issue a notice condemning "the reckless manner in which Englishmen were in the habit of riding at full speed through the crowded ways". It was clear to him that the British authorities were failing in their duty "to enforce the good conduct of our own subjects".²⁵ Grey proposed ten resolutions for Japan, and although the motion was defeated, this debate caught the eye of Henry E. J. Stanley, possibly in Geneva at the time, providing the cue for his own series of essays on the system of consular jurisdiction.

The East and the West: consuls and their civilization

Published by Hatchard & Co. in London in 1865, *The East and the West: Our Dealings with Our Neighbours* consists of six essays spread over 274 pages. Three of these relate to British foreign policy: 'Our Consular Service', 'The Effects of Contempt for International Law' and 'Protection Afforded to British Subjects Abroad'. These appear to have been written by Stanley himself, drawing on his own knowledge of the diplomatic service, The Law of Nations as devised by Grotius and Vattel, and conditions in foreign communities overseas. Other authors contributed three further essays on the religious context that Stanley saw as so important to the Eastern Question, although only one of these is named: 'Modern Christendom in the Levant' by John Ninet (1863), 'Islam as a Political System' (1832), and 'The Greek and the Russian Churches' (1852). Nearly a decade on from the Treaty of Paris, the recent naval campaigns in Japan and Earl Grey's speeches prompted him to make his own contribution to the debate on consular jurisdiction. As he pointed out in the introduction, despite all the problems with the system revealed in Alcock's *The Capital of the Tycoon*, "no steps appear to be in contemplation for their remedy".²⁶

Stanley drew parallels from these problems in Japan with the ongoing situation in the Ottoman Empire. The leading essay on 'Our Consular System' traces the evolution of foreign privileges from the capitulations, and stresses that the advent of steam communication had led to the breakdown of law and order in the multicultural foreign settlements in Constantinople. As he saw it, this was because "the Europeans in Turkey not being amenable to the local tribunals construe this immunity into impunity."²⁷ One problem was the increasing population of protégés, foreign residents from states without consuls of their own who claimed protection from other embassies. As an account some ten years before had pointed out, "it is a notorious fact that passports according the privileges of British subjects are much too lightly given to foreigners – especially in the Levant."²⁸ Stanley was harsh in his judgment of the multilingual, rootless foreign residents he called 'vagabonds', for as he claimed, "the only people who profit by the system are the ruffians, assassins, and thieves who render the streets of Pera and Galata unsafe after dark."²⁹ This was because they could often claim foreign protection and immunity from local law, a loophole so prevalent that "the dragomans of the consulates go every day to the chief police office, and claim their respective subjects who may have been taken up during the night on their predatory excursions."³⁰ It was a situation reminiscent of the problems once found in some borderlands in continental Europe where law and order had since improved:

All the wine-shops and coffee-houses kept by Ionians, Maltese, Greeks and others, are closed to the police. The wine-shops are the rendezvous of robbers, murderers, and other criminals, who are more secure there than criminals were formerly in the sanctuaries of Alsatia and Savoy.³¹

The essay went on to attack the disrespectful behaviour of British and other European subjects abroad, stretching far beyond the Ottoman Empire. The reckless horse riding reported in Yokohama was not an isolated incident, for in Constantinople as well the Europeans would ride fast past the Sultan's palace in Constantinople, or keep their umbrellas up when passing in front of it by boat. In one example from 1852, when Stanley himself was there, a British steamer had ignored local protests by landing near the palace and "blew all its smoke through the windows". In Siam, meanwhile, local customs were publicly flouted, as „Europeans delight in standing on the small wooden bridges over the canals when any of the Ministers or great nobles are passing in front of it by water." Earl Grey had already claimed that such provocative behavior only contributed to the attacks that then led to reprisals such as the bombardment of Kagoshima in Japan. Unfortunately, this could be seen as part of a wider problem. In 1858, for example, *The Times* had questioned whether *HMS Cyclops* was justified in bombarding the town of Jeddah after a massacre of the Christian community. In Stanley's view, the British had effectively provoked the incident by leaving matters in the care of an acting consul who was a notorious drunkard.³² Only months after this event Stanley had passed through Jeddah himself, and whatever he may have learned in Arabic from the local population may have contributed to the stinging indictment he reserved for his last essay: "no

impartial Englishman, who has travelled much and mingled with Foreigners, will deny, that as a nation we are extremely unpopular throughout the world.”³³

This catalogue of problems was used to demonstrate the pressing need for reform. Condemning “the damage done by the extra-territorial system”, Stanley declared, “Lord Grey’s Resolutions were called impracticable, because they were too practical, and at once cut at the root of the evil.” He then listed ten reasons why “it is illusory to hope for any satisfactory administration of justice from the Consuls in cases arising between their subjects and the inhabitants of the country.”³⁴ Even if major changes could not be implemented overnight, he suggested that the number of consuls should at least be reduced “until the obsolete capitulations are done away with in Turkey, and the treaties with other countries altered, so as not to be, as at present, sources of war and impunity for crime”. Overall, the whole system was so flawed that British foreign policy needed an overhaul:

These treaties could hardly work effectively, even with the best machinery; and they are always open to the objection that they degrade and lower the governments of the countries in which they exist, and create an unduly privileged position for the Consuls and subjects of the powers in whose favour they are made.³⁵

As Jennifer Pitts notes, *The East and the West* was unusually hostile to the system of consular jurisdiction and its publication provided “a provocative moment in the Victorian debate over the scope of international law”.³⁶ More broadly, the religious sensibility and sense of social justice apparent throughout also framed some striking comments on the nature of civilization, particularly on Europeans’ self-awareness and how they viewed themselves in relation to other societies. In the introduction, for example, he cites a passage by French Orientalist scholar Abel Rémusat from 1829:

A singular race is this European race...They walk the globe, showing themselves to the humiliated nations as the type of beauty in their figures, as the basis of reason in their ideas, the perfection of understanding in their imagination. That is their only measure. They judge all things by that rule. In their own quarrels they are agreed upon certain principles by which to assassinate one another with method and regularity. But right of nations is superfluous in dealing with Orientals.”³⁷

From early on, therefore, in some quarters there was some awareness of the emerging double standards of nineteenth-century international law. The essay by John Ninet on ‘Modern Christendom in the Levant’ put this most graphically when asserting, “under the cloak of civilization with which we deck ourselves, we, modern Christians, hide a mediocre body, and a mind more full of hypocrisy than we are disposed to admit.”³⁸ Stanley also took up this theme in his essay on international law to proclaim, “in the nineteenth century ‘Civilisation’ has taken the place of ‘Christianity’ as a watchword, and pretext for aggression.”³⁹ As he saw it, “the modern term is more vague, elastic, more unjust.” By way of illustration he imagined that Richard Cobden might find the most civilized country to be one with the most extensive network of telegraph lines. The point was that the criteria were not clearly fixed: some might insist on a knowledge of Latin, others the possession of firearms and the printing press, in China respect for law, in Japan an absence of pauperism.⁴⁰ By ridiculing the “fanciful divisions of civilised and uncivilized”, therefore, Stanley challenged the assumptions of Western diplomats that some empirically proven ‘standard of civilization’ still justified maintaining a system of consular jurisdiction until ‘barbarous’ states could meet the criteria for admittance into the European community of international law.⁴¹ As Foreign Secretary Lord Granville confidently explained to Japanese Ambassador Iwakura Tomomi in 1872, for example, “in all such cases the policy of the British Government was to yield the local authorities jurisdiction over British subjects in precise proportion to their advancement in enlightenment and civilization.”⁴² Cerrit Gong has argued that that such a definitive standard did exist, but even at the time Stanley was clearly unconvinced by such a politically convenient construct.⁴³ As Martti Koskenniemi points out, this presumption of measuring progress with some kind of scientific exactitude never really defined a “stable standard of civilization” and always remained within the realms of “conjectural policy”.⁴⁴

Legacy and Conclusion

Described as timely by *The Westminster Review*, Stanley’s *The East and the West* did attract some attention in Victorian political circles. Similar views appeared in 1866 with the publication of *International Policy*, an influential collection of essays on foreign relations edited by radical thinker Richard Congreve, founder of the Positivist movement in Britain.⁴⁵ Congreve was critical of “the freebooting tendencies of European commerce”; like Earl Grey, he recommended withdrawing “all protection from the unfair trader” and leaving him “to the justice of those on whom at present he preys”.⁴⁶ Throughout there was a mistrust of merchants abroad and the inevitable consequences of Britain’s track record of forcing trade on Asia: “The India of yesterday is the China of to-day, and the China of to-day the Japan of to-morrow.”⁴⁷ The conclusions drawn were mainly pragmatic, however, and the recommendations did not go as far as dismantling the existing system of consular jurisdiction.⁴⁸ Possibly the most powerful figure to show some familiarity with these ideas was Henry’s namesake Edward Stanley, now Foreign Secretary, who in 1867 readily admitted “the evils to which the present system of Consular jurisdiction in Egypt has given rise”.⁴⁹ The British government was certainly more receptive than the French to proposals for a new system of mixed courts suggested by Nubar Pasha, the Egyptian minister of foreign affairs. After further consultation the new system was introduced in

1875, removing the overlapping jurisdictions that had caused such “judicial chaos”, even if foreign privileges still remained.

One journalist who certainly read Stanley’s essays was a correspondent of *The Times* called Antonio Gallenga. When Sir Austen Layard told the House of Commons in 1868 that a system of mixed courts should also be introduced in the Ottoman Empire, Gallenga wrote an article entitled *The East and the West*, recapping many of the points outlined by Stanley three years before. In a stinging attack on European condescension towards justice in Muslim lands, he took a high moral standpoint in pointing out, “the mere fact that we choose to consider other people as barbarous or semi-barbarous does not entitle us to act as barbarians towards them.” Echoing Victorian anxiety over the trail of wars following British trade in the East, he even suggested European complicity in provoking such conflicts by claiming, “It was Christian bigotry or hypocrisy, that indisposed against us distant nations, and reared up against our trade those “walls” which had afterwards to be overthrown by violence.”⁵⁰ As he summed up succinctly, “there must be one jurisdiction in Turkey and Egypt, as there is one in France or England.” Foreign Secretary Lord Stanley, however, took a more pragmatic line and adopted a rationale that would frame British policy for the next twenty years. Although he welcomed the experiment of mixed courts in Egypt, he insisted that the “lesser evil” of consular jurisdiction must remain in place until any workable alternative was verified.⁵¹ Gallenga’s riposte was swift: “even the most mitigated Mussulman justice must appear the lesser evil.”⁵² Pitts has noted that his views “were strikingly more inclusive in their understanding of international law and the duties it imposed on Europeans than were the prominent international lawyers of their time.”⁵³ Even as the experiment of mixed courts was developed for Egypt, however, the public mood in Britain would turn against the Ottoman Empire’s claims for full sovereignty during the 1870s. In response to reports of Christian massacres, the Disraeli government’s support for Turkey against Russia was severely undermined in 1876 by William Gladstone’s pamphlet on *Bulgarian Horrors and the Question of the East*, which not only labelled Turkish dominion antithetical to “civilization”, but „opposed to government by law”.⁵⁴ The Russo-Turkish War and Treaty of Berlin that followed only reinforced the status quo. Nevertheless, now ten years on from Gallenga’s articles in *The Times*, international lawyers such as Sir Travers Twiss were at last beginning to acknowledge that in principle non-Christian societies did share a common understanding of their legal obligations with the states of Europe.⁵⁵

Stanley’s *The East and the West* highlights the fact that even as Europeans envisioned a global order in their own image and an ‘inner circle’ of civilized states, there was already something of an identity crisis over the unstable connotations of terms like ‘civilization’. While civilizing missions were boldly constructed and intoned to legitimize colonial projects, the fault line in international law opened up by the Treaty of Paris in 1856 prompted growing doubts on the rationale for preferential jurisdictional regimes in the notionally barbarous empires of the east. In the case of Britain, non-interventionists were already campaigning against the use of military force in far-off regions where they could not provide adequate protection. Their calls resonated with Stanley’s own experience as a disillusioned young diplomat in Constantinople, and his dismay at the state of semi-anarchy and disorder that consular jurisdiction had contributed to fostering in some Mediterranean port cities. While there is perhaps a tendency to assume that many of the problems associated with imperial hegemony have only really been brought to light through the groundbreaking work of postcolonial studies over recent decades, Stanley’s case serves as a reminder that even in the 1860s there were already some critics who were acutely aware of the issues surrounding the construction of European civilization in the nineteenth-century world.

Profile

Andrew Cobbing lectures in modern East Asian history and East-West cultural relations at the University of Nottingham in England with specific focus on nineteenth-century Japan. His first degree was at Bristol (UK), followed by a Masters at Kyushu (Japan), and a PhD at SOAS (UK). His books include *The Japanese Discovery of Victorian Britain* (1998), *The Satsuma Students in Britain* (2000), and *Kyushu: Gateway to Japan* (2009). He has written a number of articles on Japanese diplomats and has been involved in some major translation projects, notably the English production of the official account of the 1871-3 Iwakura Embassy by Kume Kunitake, *An Official Account of the Ambassador Extraordinary’s Journey to America and Europe* (2002). His most recent translation is the final volume of *Clouds above the Hill [Saka no ue no kumo]* (2014), Shiba Ryōtarō’s epic historical novel on the Russo-Japanese War.

¹ Article VII, The Treaty of Paris, 1856.

² ‘The Plenipotentiaries, then, unanimously recognize the necessity of revising the Capitulations, and decide upon recording in the Protocol their wish that a deliberation should be opened at Constantinople.’ Protocol, Treaty of Paris, 1856. On the ‘phantom’ conference of Constantinople see Turan Kayaoğlu, *Legal Imperialism: sovereignty and extraterritoriality in Japan, the ottoman Empire, and China* (Cambridge: Cambridge University Press, 2010), 121-2.

³ These common phrases appear in, for example, Eliana Augusti, ‘From Capitulations to Unequal Treaties: the matter of an extraterritorial jurisdiction in the Ottoman Empire’, *Journal of Civil Law Studies*, Vol. 24, Issue 2, December 2011, 286, 307.

⁴ This ‘inner circle’ was Sir Travers Twiss’s interpretation of *civitas maxima*, twisting the universalist interpretation used by Christian Wolff in the eighteenth century that encompassed ‘all nations’. Jennifer Pitts, ‘Empire and Legal Universalisms’, *The American Historical Review*, Vol. 17, No. 1 (February 2012), 101.

⁵ Stephan Krasner, *Sovereignty: organized hypocrisy* (Princeton: Princeton University Press, 1999)

⁶ As *The Times* correspondent in Constantinople explained, “These concessions, it is true, were not extorted from the weakness of

later Sultans; they are rather relics of a time when the House of Othman was the terror of Europe.” *The Times*, 3 May 1858. Capitulations had changed from personal grants to contractual terms since the 1740 treaty with France. Augusti, *From Capitulations to Unequal Treaties*, 292

⁷ For further details of Stanley’s life see Jamie Gilham, *Loyal Enemies: British Converts to Islam, 1850-1950* (Oxford: Oxford University Press, 2014), 19-48.

⁸ *Ibid.*, 27.

⁹ Helen and Anthony Reid, ‘A Voice for Southeast Muslims in the High Colonial Era: the Third Baron Stanley of Alderley’, *Education About Asia*, Vol. 11, No. 3 Winter 2006, 5.

¹⁰ *Ibid.*, 6.

¹¹ Earl of Aberdeen to Lord Heytesbury, Foreign Office, 31 October 1829. Cited in *The Times*, 3 May 1854.

¹² *The Times*, 20 April 1854.

¹³ *Ibid.*, 11 September 1854.

¹⁴ The US consul-general wrote to the State Department that “\$1000 was offered by two separate parties in Damiata [Damietta] to obtain the vice consular agency.” Ziad Fahmy, ‘Jurisdictional Borderlands: extraterritoriality and “legal chameleons”’, *Comparative Studies in Society and History*, 55(2) (2013), 315. Jasper Brinton, *The Mixed Courts of Egypt* (New Haven and London: Yale University Press, 1968). 9.

¹⁵ ‘The East and the West’, *The Times*, 24 August 1868, p. 8. This account is slightly embellished. While it does describe him representing seven consulates, the original text mentions only French and Austrian uniforms and these interviews take place off the island of Kos. *Turkey: sketches from life*, by the Roving Englishman (1855). New edition published 1877, 276. The Roving Englishman was Eustace Glenville-Murray, who had a chequered career in the diplomatic service as the whistleblower of the Foreign Office. See G. R. Berridge, *Diplomatic Whistleblower in the Victorian Era: The Life and Writings of E. C. Glenville-Murray* (2013).

¹⁶ John Ninet, ‘Modern Christendom in the Levant’ in Stanley (ed.), *The East and the West*, 91.

¹⁷ These terms are from Fahmy, ‘Jurisdictional Borderlands’, 310.

¹⁸ Jennifer Pitts, ‘Boundaries of Victorian International Law’, in Duncan Bell, in Duncan Bell, *Victorian Visions of Global Order: empire and international relations in nineteenth-century political thought* (Cambridge: Cambridge University Press, 2007), 67.

¹⁹ This speech contributed to the resignation of the government but did not prevent the war. A general election returned Lord Palmerton to power and the Second Opium War continued, with some interruption, until 1860.

²⁰ House of lords Debate, 19 February 1861.

²¹ Earl Grey, House of Lords debate, ‘Japan – Address for papers’, 10 July 1863.

²² On Richardson’s culpability see George Smith (Bishop of Victoria), *Ten Weeks in Japan* (London: Longman, 1861). On his reputation, also Mitsuru Hashimoto and Betsey Scheiner Collision at Namamugi, *Representations*, No. 18 (Spring, 1987), 69-90.

²³ Mr. Cobden on the Japanese Question’ *The Times*, 10 November 1863.

²⁴ Earl Grey, House of Lords debate, ‘Japan Resolutions’, 1 July 1864.

²⁵ *Ibid.*

²⁶ Henry Stanley (ed.), *The East and the West: Our Dealings with Neighbours*, (London: Hatchard & Co., 1865), 25, 32, 49.

²⁷ *Ibid.*, 5.

²⁸ *Turkey: sketches from life*, by the Roving Englishman, 74.

²⁹ Stanley, *The East and the West*, 4, 36. Antonio Gallenga borrowed but did not reference this phrase in the 24 August 1868 edition of *The Times*.

³⁰ *Ibid.*, 37.

³¹ *Ibid.*, 4.

³² *Ibid.*, 52, 125. Another recent example was the 1864 bombardment of Tringannu, in Stanley’s opinion an undeclared act of aggression, just like the Ashanti War.

³³ *Ibid.*, p. 265. Stanley did qualify this statement by specifying that it applied to the non-Christian East.

³⁴ *Ibid.*, 25, 32, 49.

³⁵ *Ibid.*, v, 29, 47-9

³⁶ Pitts, ‘Boundaries of Victorian International Law’, 79.

³⁷ Stanley (ed.), *The East and the West*, vi.

³⁸ John Ninet, ‘Modern Christendom in the Levant’, in Stanley (ed.), *The East and the West*, p. 56.

³⁹ Stanley, (ed.), *The East and the West*, 115.

⁴⁰ *Ibid.*, 117-8.

⁴¹ *Ibid.*, 115, 265.

⁴² Memorandum of an interview between Earl Granville and Iwakura, Chief Japanese Ambassador, at the Foreign Office, November 27, 1872. Granville Papes, PRO 881/2138.

⁴³ Cerrit Gong, *The Standard of Civilization’ in International Society* (Oxford: Clarendon Press, 1984), n 84.

⁴⁴ Martti Koskenniemi, *The Gentle Civilizer of Nations: the rise and fall of international law, 1871-1960* (Cambridge: Cambridge University Press, 2002), 134.

⁴⁵ Gregory Claey’s, ‘The “Left” and the Critique of Empire, c. 1865-1900. In Bell (ed.), *Victorian Visions of Global Order*, 240.

⁴⁶ Richard Congreve, ‘The West’, Richard Congreve (ed.), *International Policy: essays on England’s foreign relations* (1866), 17, 42-3.

⁴⁷ E. H. Pember, ‘England and India’, Congreve (ed.) *International Policy*, 228.

⁴⁸ Cookson, ‘England and Japan’, Congreve (ed.), *International Policy*, 513.

⁴⁹ Layard was paraphrasing a letter from Lord Stanley to Colonel Stanton, 18 October 1867. Austin Layard, ‘Consular Courts in Turkey and Egypt – Observations’, House of Commons, 10 July 1868.

⁵⁰ ‘The East and the West’, *The Times*, 24 August 1868.

⁵¹ Austin Layard, ‘Consular Courts in Turkey and Egypt – Observations’, House of Commons, 10 July 1868.

⁵² ‘The East and the West’, *The Times*, 24 August 1868.

⁵³ Pitts, ‘Boundaries of Victorian International Law’, 79.

⁵⁴ William E. Gladstone, *Bulgarian Horrors and the Question of the East* (London: John Murray, 1876), 9.

⁵⁵ *Annuaire de l’Institut de Droit International*, Vol. 3, 302.