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COLONIZED FUTURES: LAW, INHERITANCE, AND EMPIRE IN THE NINETEENTH-  
CENTURY BRITISH NOVEL

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For my mom, Reyna

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## ABSTRACT

This dissertation examines the relationship between metropolitan fiction and colonial law during the second half of the nineteenth-century. Building on contemporary scholarship in postcolonial studies of Victorian literature, along with recent calls to rethink how we study racism, whiteness, and empire in Victorian Studies, I show how the metropolitan novel collaborated with colonial laws that reshaped British rule abroad from the 1860s onward. After a series of colonial uprisings that dramatically challenged the posterity of the British Empire, this period saw the turning away from liberal justifications of imperialism to a “culturalist” model of colonial governance that placed new emphasis on the cultural specificity of native society, as political theorist Karuna Mantena has argued. In “Colonized Futures: Law, Inheritance, and Empire in the Nineteenth-Century British Novel,” I reveal the novel’s investments in the future of empire by showing how the inheritance plot furthers some of the most pressing legal reforms of this period, from the political conflict over the expansion of citizenship rights in Jamaica, to the codification movement in India, to the emergence of the comparative method foundational to Britain’s indirect rule. I show how realist writers such as George Eliot, Wilkie Collins, and Thomas Hardy transcode into the inheritance plot the efforts of colonial lawmakers to reestablish imperial authority abroad. Alongside their novels, this dissertation draws on the legalistic work of some of the most influential jurists and colonial administrators of the time—Frederic Harrison, James Fitzjames Stephens, and Henry Maine—to demonstrate how the novel dramatizes, endorses, and resists the legal order they envisioned for the future of empire.

## INTRODUCTION

In her seminal reading of Charlotte Brontë's *Jane Eyre* (1847), Gayatri Spivak wrote that "the active ideology of imperialism" powers Jane's *bildug* progress from an illegitimate model of the family to a legitimate one, what she calls the movement from "the place of the counter-family" to the "family-in-law."<sup>1</sup> Spivak's point is that Jane's attainment of female agency and individuation uses the legitimacy of the family unit to achieve the greater project of empire. According to Spivak's reading, the politics of imperialism are intimately bound to the novel's genealogical models of community: Jane's entrance into legitimate family life requires two narrative moves, the substitution of Jane for Bertha Mason, the white Jamaican Creole woman and "not-yet-human Other"; and the exit of Rochester's rival, St. John Rivers, from the text, off to India to fulfill his role in Britain's civilizing mission. As a result, *Jane Eyre* ends in "*a community of families*, with Jane, Rochester and their children at the center."<sup>2</sup> What makes these narrative moves possible, Spivak claims, is the discursive field of imperialism, "a system of signs" in the novel that manage the "continuing success of the imperialist project."<sup>3</sup>

This dissertation investigates how the "family-in-law", to use Spivak's term, became the nineteenth-century realist novel's central site for ensuring the future of empire. I argue that the inheritance plot—with its focus on kinship ties, genealogical bloodlines, and the transmission of property—is a key site for furthering the hegemony of the British Empire abroad. The most-studied works in the Victorian literary canon typically feature narrative closures with the consolidation of the family in marriage and the acquisition of inheritance. The chapters I present

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<sup>1</sup> Gayatri Chakravorty Spivak, "Three Women's Texts and a Critique of Imperialism," *Critical Inquiry* 12, no. 1 (1985): 243-261, 247.

<sup>2</sup> Spivak, "Three Women's Texts and a Critique of Imperialism," 247.

<sup>3</sup> Spivak, 247, 243.

here show how these presumed ‘closures’ expand the narrative towards a future of colonial order. In the case of *Jane Eyre*, for example, Jane’s inheritance and her marriage to Rochester support a nationalist project essential to the colonial order that St. John Rivers’ missionary work in India represents. As Jane puts it at the end of the novel, in India “[St. John Rivers] labours for his race” back home.<sup>4</sup> Earlier in the novel, Jane articulates her role in this colonial enterprise. Here, as mistress of a village school during her stay with the Rivers’ family at Moor House, she thinks to herself:

I must not forget that these coarsely clad little peasants are of flesh and blood as good as the scions of gentlest genealogy; and that the germs of native excellence, refinement, intelligence, kind feeling, are as likely to exist in their hearts as in those of the best-born. My duty will be to develop these germs: surely I shall find some happiness in discharging that office. Much enjoyment I do not expect in the life opening before me: yet I will, doubtless, if I regulate my mind, and exert my powers as I ought, yield me enough to live on from day to day.<sup>5</sup>

This telling passage draws together the connections between genealogy, inheritance, and nationalism that, in this dissertation, I argue are essential to the development of the British Empire. Jane’s view, that the poor village children she teaches are “as good as the scions of gentlest genealogy,” recalls the principle of the English birthright inheritance, a concept that

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<sup>4</sup> Charlotte Brontë, *Jane Eyre* (Oxford: Oxford University Press, 2019 [1847]), p. 440.

<sup>5</sup> Brontë, *Jane Eyre*, 349.

figuratively applies the rights and privileges of the landed aristocracy to the whole of English people, “establishing them as a kind of nobility among nations.”<sup>6</sup> Brontë’s use of the word ‘scion’ confirms this relation to nobility, its etymology coming into Middle English from the French word *syon*, meaning descendant or offspring, typically from a wealthy or noble family.<sup>7</sup> Given these schoolchildren are “coarsely clad little peasants,” Jane reflects that “she must not forget” their “gentlest” origins, their “flesh and blood” containing the “germs” of the rights associated with the subjecthood they will eventually have: “native excellence, refinement, intelligence, kind feeling.” Jane’s “duty,” to “develop” the “germs” of English subjecthood, deems her reproductive capacity essential to national improvement. What Jane voices, then, is a nationalist project conceived through the idea of genealogy, an inherited kinship between the lowest classes and the “best born”—in a word, *family*. By the end of the novel, Jane has transposed her “office” as a school teacher to her family-in-law, married and birthing her own “scions of the gentlest genealogy.” In this way, St. John Rivers’ colonial enterprise to improve his “race” and Jane’s maternal, racial, and civil reproduction at home share a responsibility to the longevity of empire.

In “Colonized Futures: Law, Inheritance, and Empire in the Nineteenth-Century British Novel,” I argue that these genealogical imperatives encode the role that the metropolitan novel had in the management of the British Empire. I reveal the novel’s investments in the future of empire by showing how the inheritance plot furthers some of the most pressing legal reforms of this period, from the political conflict over the expansion of citizenship rights in Jamaica, to the

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<sup>6</sup> Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt, Inc., 1976 [1966]), 176. See pp. 175-184 for a succinct history of the origins of the myth of the English national inheritance. Here, Arendt attributes the idea to Edmund Burke during the French Revolution.

<sup>7</sup> *Oxford English Dictionary*, s.v. “scion, n.,” July 2023. <<https://doi-org.proxy.uchicago.edu/10.1093/OED/1188041869>>

codification movement in India, to the emergence of the comparative method foundational to Britain's indirect rule. I show how realist writers George Eliot, Wilkie Collins, and Thomas Hardy transcode into the inheritance plot the efforts of colonial lawmakers to reestablish imperial authority abroad. Alongside their novels, this dissertation draws on the legalistic work of some of the most influential jurists and colonial administrators of the time—Frederic Harrison, James Fitzjames Stephens, and Henry Maine—to demonstrate how the novel dramatizes, endorses, and sometimes resists the legal order they envisioned for the future of empire.

Towards the end of Spivak's essay, she writes that in order to "expand the frontiers of a politics of reading" that engages a critique of the novel's "discursive field of imperialism," we must "turn to the archives of imperialist governance."<sup>8</sup> Nearly four decades later, the field of Victorian Studies continues to grapple with how to study the histories of empire and race in nineteenth-century literature. Building on contemporary scholarship in postcolonial studies of Victorian literature, this dissertation responds to some of the calls that many scholars, especially scholars of color within Victorian Studies, have rightfully demanded of the field: first the importance of situating our close readings of canonical texts within "new constellations" of histories of colonial resistance in order to fully engage issues of empire and race, as the authors of the recent and well-circulated essay "Undisciplining Victorian Studies" have written.<sup>9</sup> In this manner, I read George Eliot's *Felix Holt* (1866) alongside Frederic Harrison's 1866 letters on martial law in the *Daily News* during the Jamaican Controversy in the aftermath of the Morant Bay Rebellion; Wilkie Collins' *The Moonstone* in the context of the letters and articles James

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<sup>8</sup> Spivak, 259.

<sup>9</sup> Ronjaunee Chatterjee, Alicia Mireles Christoff, Amy R. Wong, "Undisciplining Victorian Studies" *Los Angeles Review of Books*, July 10, 2020, 2. Accessed online: <https://lareviewofbooks.org/article/undisciplining-victorian-studies/>.

Fitzjames Stephen wrote during his tenure in the Viceroy Council in India between 1869-1872, during which he became the most prolific legal codifier in the Anglo-Indian administration; and Thomas Hardy's *The Return of the Native* (1878) in the terms provided by Henry Sumner Maine's proto-anthropological thinking in *Ancient Law* (1861) and *Village-Communities in the East and West* (1871), two formative texts that helped institutionalize the comparative method foundational to the fields of anthropology and sociology. In each of these cases, I show how these developments in colonial law in Jamaica and India were integral to the novel's inheritance plot.

#### Historical Context

The fiction this dissertation examines were published following two major colonial rebellions: The Indian Rebellion of 1857 and the Morant Bay Rebellion of 1865. The Indian Rebellion, sparked when the Indian military refused to use newly issued rifle cartridges greased with beef and pork and following a wave of Christian missionaries seeking to convert natives, marked a crucial turning point in the imperial practices of the British Empire. This crisis, culminating in the abolition of the East India Company in 1858 and forcing colonial officials to confront growing native disaffection and imperial failure, led to a fundamental reassessment of the colonial structures of law that an entire generation of Benthamite legislators had espoused. If British legislators in the first half of the nineteenth century sought to establish a uniform rule of law that would shape native societies along Western lines, the second half of the nineteenth century introduced a new generation of legal codifiers grappling with how to administer a rule of

law that accommodated native difference.<sup>10</sup> The Indian Rebellion led to the most intense period of codification during the 1860s-1870s, a legal movement which placed new emphasis on the cultural and racial differences between British and Indian societies. During this time, as political theorist Karuna Mantena explains, “native society was given an altered and heightened ideological function, not strictly as a pathology to be overcome but as a structure to be accommodated and contained.”<sup>11</sup> In other words, native society was targeted to better understand and control. The codification movement helped facilitate this control by policing the boundaries of race, gender, and sexuality. In chapter two, I show how *The Moonstone* replays this transition from a universal model to culturally-oriented model through the vehicle of literary “character,” specifically English character. In chapter three, I show how *The Return of the Native* both uses and critiques the insights borne out of the culturally specific model that colonial administrator Henry Maine pioneered.

Eight years after the Indian Rebellion, rebellion was afoot, again, this time in Jamaica. Orchestrated by local farmer and Baptist deacon, Paul Bogle and his compatriots, this colonial insurrection was the result of years of post-emancipation neglect and exploitation of the working-class masses: severely low wages, unemployment, high taxes, disenfranchisement, unequal rights, and most essential, access to land.<sup>12</sup> On October 10, 1865, one day before the

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<sup>10</sup> Historian Karuna Mantena refers to this transition as direct to indirect rule, a transformation from a “universalist to culturalist stance in imperial ideology.” See *Alibis of Empire: Henry Maine and the Ends of Liberal Imperialism* (Princeton and Oxford: Princeton University Press, 2010), 2.

<sup>11</sup> Mantena, *Alibis of Empire*, 12.

<sup>12</sup> For this historical context, I draw on the work of Catherine Hall, *Civilizing Subjects: Metropole and Colony in the English Imagination, 1830-1867* (Chicago: University of Chicago Press, 2002); Gad Heuman, *The Killing Time: The Morant Bay Rebellion in Jamaica* (Knoxville: University of Tennessee Press, 1994); Rande W. Kostal *A Jurisprudence of Power: Victorian Empire and the Rule of Law* (Oxford: Oxford University Press, 2005); Kennetta Hammond

rebellion, Bogle and other members of the Jamaican working-class appealed to the Queen for civil protections. When their appeals were ignored, the next day Bogle led several hundreds of people to Morant Bay, leading to a violent confrontation with police and military forces.<sup>13</sup> The outbreak ended the following day because of Governor Edward John Eyre's use of martial law to suppress the uprising. Suspending civil law in the eastern parts of the island and sending troops to Morant Bay with orders to kill, Eyre's spree of violence resulted in the death of 439 Jamaican people and the flogging of 600 more, sparking renewed concerns about Black and brown civil rights and national belonging that newly freed people in Jamaica had been petitioning for and protesting in the years after the abolition of slavery. Following scholars like Catherine Hall, Gad Heuman, Rande W. Kostal, and Timothy Watson the first chapter of this dissertation studies the intersection between the colonial rebellion in Jamaica and English working-class struggles in the years leading up to the passing of the Second Reform Bill in 1867. More specifically, the chapter explores how notions of hereditary blood status and genealogical inheritance formed the ideological basis of an English nationalist project crucial to the development of citizenship rights in both Jamaica and England during the nineteenth century.

Notably, each novel I study in this dissertation is set in a past several decades removed from its contemporary moment of publication and serialization. Published one year before the Second Reform Act of 1867 (an act that extended the franchise to the English working-class) but set during the events immediately following the First Reform Act of 1832, *Felix Holt* goes back

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Perry, *London is the Place for Me: Black Britons, Citizenship, and the Politics of Race* (Oxford: Oxford University Press, 2015); Sarah Winter, "On the Morant Bay Rebellion in Jamaica and the Governor Eyre-George William Gordon Controversy, 1865-70," *BRANCH: Britain, Representation and Nineteenth-Century History*. Web.

<sup>13</sup> Perry, *London is the Place for Me*, 32.

in time to rewire the historicism of its contemporary moment. Furthermore, *The Moonstone*, locating its action in 1799 India and 1840s England, is first serialized in 1868, marking the almost ten-year anniversary of the Indian Rebellion of 1857 and the abolition of the East India Company. Likewise, *The Return of the Native*, published in 1878, takes place on Egdon Heath before the parliamentary enclosure of the commons. In their dislocated temporalities these novels share a resounding platitude: to understand the present, one must go back to the past. But my readings here are interested in what their inheritance plots do to secure futures, as they contemplate their contemporary moment.

All three novels embed their inheritance plots with ambitions to secure a colonial future. By arguing this position, I do not mean to suggest a determinist account of future histories, but I am taking seriously the historicity of forms of inheritance, specifically the ways that the novel uses inheritance as a tool for controlling the flow of a history. In my dissertation, I explain how these forms of inheritance are indispensable to developments in colonial law throughout the nineteenth century. And for all the ways the metropolitan novel tries to secure a colonial future, part of my project illuminates the ways that Black and Brown subjects in the British empire resisted these colonial futures. For example, in chapter one I pair my reading of *Felix Holt* with the real historical case of the Kingston Committee of Free People of Color, a coalition of freedmen of mixed-race origins working to secure their political enfranchisement in colonial Jamaica in the 1820s, the decade before the abolition of slavery across the British Empire. Their activism reveals how they instrumentalized their inherited racial status to redefine the parameters of an exclusive English birthright which had served to secure lineages of white racial purity. Through mass campaigns and circulated petitions, they put pressure on the colonial government to grant free people of mixed descent equal rights with white people in Jamaica. In other words,

these men of African descent gave elasticity to the concept of British citizenship by demonstrating that the security of exclusive genealogical origins is a fiction, socially constructed and subject to change over time. While their activism demonstrates how they expanded the terms of their imperial citizenship in the early part of the nineteenth century, a novel like *Felix Holt* demonstrates how contemporary debates about citizenship reacted against the gradual expansion of rights in the colonies.

### Literature Review

My dissertation develops four lines of related inquiry. First, it traces the history of key political moments in the development of empire during the second half of the nineteenth century. I offer an account of how colonial insurrection, the discourse of citizenship, and the legal reforms of Britain's indirect rule brought new challenges and changes to the mode of imperialism that had previously characterized the first half of the century. Second, it investigates how the codes of law and imperial policies that emerged from these political moments came to name what is understood as *liberal imperialism*. I show how Britain's attempts to administer a system of equal justice to those who were understood as legally and politically unequal intensified the uneven development of British rule abroad. But these problems over the stability of British rule were not confined to the "elsewhere" of the colonies. Thus, the third line of inquiry redefines the relationship between the metropolitan center and the colonial state by showing how the concerns of imperial policy gained traction in the metropole, shaping reform agendas, the self-fashioning of English identity and national belonging, and the fractures between metropolitan and rural life. Fourth, it explores how the novel engages with this political milieu at the level of formal innovation. Through their narratives of familial disintegration, inheritances, modern subjectivity, the novels I study here are structured by a legal discourse that

absorbed and reconfigured the conflict between colonial experience and the universal aspirations of imperialism.

In thinking about how the British empire provided the practical conditions for liberalism's lexicon of citizenship, rights, self-determination, and racial and cultural difference, I draw from scholarly work by Dipesh Chakrabarty, Gad Heuman, Elizabeth Kolsky, Karuna Mantena, Uday Singh Mehta, Durba Mitra, Brooke N. Newman, Kennetta Hammond Perry, Jyoti Puri, and Ann Laura Stoler.<sup>14</sup> Not only do these scholars begin their studies from the

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<sup>14</sup> Dipesh Chakrabarty *Provincializing Europe: Political Thought and Historical Difference* (Chicago: University of Chicago Press, 2000); Gad Heuman, *The Killing Time: The Morant Bay Rebellion in Jamaica* (Knoxville: University of Tennessee Press, 1994); Elizabeth Kolsky, *Colonial Justice in British India: White Violence and the Rule of Law* (Cambridge: Cambridge University Press, 2010); Karuna Mantena, *Alibis of Empire* (Princeton: Princeton University Press, 2010); Uday Singh Mehta, *Liberalism and Empire* (Chicago: University of Chicago Press, 1999); Dubra Mitra, *Indian Sex Life: Sexuality and the Colonial Origins of Modern Social Thought* (Princeton and Oxford: Princeton University Press, 2020); Brooke Newman, *A Dark Inheritance: Blood, Race, and Sex in Colonial Jamaica* (New Haven: Yale University Press, 2018); Kennetta Hammond Perry, *London is the Place for Me: Black Britons, Citizenship, and the Politics of Race* (Oxford: Oxford University Press, 2015); Jyoti Puri, *Sexual States: Governance and the Struggle over the Antisodomy Law in India* (Durham and London: Duke University Press, 2016); Ann Laura Stoler, *Carnal Knowledge and Imperial Power: Race and the Intimate in Colonial Rule* (Berkeley and Los Angeles: University of California Press, 2010 [2002]).

understanding that empire was crucial to the development of European liberalism, they also clarify how the construction of racial and cultural difference variously emerged from the colonial policies of British rule. Mehta, Chakrabarty, and Mitra variously explore how the political philosophical tradition of the late eighteenth- and nineteenth-centuries established universal categories of human experience that, when confronted with the realities of racial, cultural, and sexual difference in colonies such as India, sought to forcefully change unfamiliarity into the recognizable features of the fully individuated citizen-subject of Western modernity. This project considers liberalism's violent translations of colonial difference in the context of the legal experimentations that traveled between Britain and the colonies, asking how liberalism's built-in tendency to transform the unfamiliar into the familiar created new forms of imperial governance. Work by Heuman, Newman, Perry, and Stoler provide specific assessments of liberal imperialism, showing how the relationship between genealogy, inheritance, and race formed the ideological basis of an English nationalist project crucial to the development of citizenship rights in both Jamaica and England during the nineteenth century. Similarly, the work of Kolsky, Puri, and Mantena show how colonial legal reforms in India post-1857 tried to make racial, cultural, and sexual difference stable categories of identity that automatically determined one's access to certain privileges or denial of those privileges. In sum, this body of scholarship tracks how the dynamics of colonial governance abroad provided the conditions for the liberalism associated with the metropolitan center.

That liberal discourse often obscures its embeddedness with imperialism parallels the Victorian novel's disavowal of empire, as importantly argued by Edward Said. Since the epochal publication of *Orientalism* (1978) and later *Culture and Imperialism* (1993), literary scholars and historians of the British empire have re-examined the sociopolitical interactions and influences

between Britain and the colonies.<sup>15</sup> Rather than taking the Victorian novel to be primarily concerned with the private domestic sphere of the middle-class parlor, literary critics have sought to address how the geopolitical realities from abroad—war and empire, insurrection and revolution—disturb the novel’s insular purview. My dissertation continues this line of inquiry by asking how the period’s domestic fiction participated in a discourse about colonial governance crucial to the interface between Britain and its colonies. My focus on the political and legal interconnections between colony and metropole follows a body of postcolonial scholarship by Antoinette Burton, Simon Gikandi, Paul Gilroy, Catherine Hall, and others in redefining the boundaries of the “British” nation, arguing that the metropole was a political territory that could not escape the influence of empire.<sup>16</sup> My objective is neither to search the domestic novel for passing references to Britain’s colonial governance abroad nor to heuristically to identify moments in narrative that directly engage imperial policy, but rather to show how narrative form was integral to the development of colonial law within the transactions between Britain and its colonies.

To disrupt the narrative that Britain and its colonies existed separately rather than interdependently, Nasser Mufti in *Civilizing War: Imperial Politics and the Poetics of National Rupture* (2017) has recently argued that “civil conflict” in England was the means for

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<sup>15</sup> Edward Said, *Orientalism* (New York: Pantheon Books, 1978); *Culture and Imperialism* (New York: Vintage House, 1993).

<sup>16</sup> Patrick Bratlinger, *Rule of Darkness: British Literature and Imperialism, 1830-1914* (Ithaca: Cornell University Press, 1988); Antoinette Burton, *Burdens of History: British Feminists, Indian Women, and Imperial Culture, 1865-1915* (Chapel Hill and London: The University of North Carolina Press, 1994); Simon Gikandi, *Maps of Englishness: Writing Identity in the Culture of Colonialism* (New York: Columbia University Press, 1997); Paul Gilroy, *The Black Atlantic* (Cambridge: Harvard University Press, 1995); Catherine Hall, *Civilising Subjects: Metropole and Colony in the English Imagination 1830-1867* (Chicago and London: The University of Chicago Press, 2002).

conceptualizing national unity, whereas “civil conflict” in the colonies came to be evidence of their inability to achieve the modern civilization of nationhood.<sup>17</sup> This dissertation follows Mufti’s efforts to explain Britain’s ideological effort to distinguish itself apart from the colonies, but it departs from Mufti in its focus on how legal experiments in the colonies activated crucial legislative acts in England that served to maintain its status as a unified and separate nation. The Victorian novel, I argue, is integral to these legislative convergences because it helped shape conceptions of colonial governance that were being negotiated and contested in the legal discourse of the period. On this count, I also situate my project alongside two recent books that offer models for analyzing the centrality of empire to the formal features of metropolitan literature. Nathan Hensley’s *Forms of Empire: Poetics of Victorian Sovereignty* (2016) studies how plot, narration, meter, and genre negotiate and think through the irresolvable dilemma of liberalism’s authorizing violence and bourgeois civility—“the curious intimacy between legality and harm.”<sup>18</sup> Lauren Goodlad’s *The Victorian Geopolitical Aesthetic: Realism, Sovereignty, and Transnational Experience* (2015) investigates how the liberal discourse of legitimizing sovereignty beyond England’s borders shaped mid-nineteenth to early twentieth-century transatlantic aesthetics in the realist novel.<sup>19</sup> My project takes their method as its starting point in order to examine the relevance of legal discourse to literary form.

One way I plan to understand sovereignty is to approach the exercise of political power as a site charged with the inequities of racialized difference. As scholars such as Thomas Holt,

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<sup>17</sup> Nasser Mufti, *Civilizing War: Imperial Politics and the Poetics of National Rupture* (Evanston: Northwestern University Press, 2017).

<sup>18</sup> Nathan Hensley, *Forms of Empire: The Poetics of Victorian Sovereignty* (Oxford and New York: Oxford University Press, 2016), 5.

<sup>19</sup> Lauren Goodlad, *The Victorian Geopolitical Aesthetic: Realism, Sovereignty, and Transnational Experience* (Oxford and New York: Oxford University Press, 2015).

Gad Heuman, Christine Bolt, Elizabeth Kolsky and others have shown, the second half of the nineteenth century saw an intensification of racist sentiment in the aftermath of the Indian Rebellion and the Morant Bay Rebellion, an increasing tendency to see Black and brown people as inferior to the white race, unfit to participate in their own governance, and in need of moral guidance.<sup>20</sup> My project seeks to address how this racist ideology was produced and strengthened through the legal response to colonial insurrection. In India, for example, the Code of Criminal Procedure (1861) was developed in response to criticisms about the failure of colonial administrators to stabilize social order among native populations. This code of criminality hardened the legal lines of racial distinction in colonial India by withdrawing from Indian magistrates and judges the power to try cases against European British-born subjects.<sup>21</sup> Thus, this project of codification inscribed and reinforced racial distinctions and hierarchies *within* legal procedure, developing a logic of racialized criminality I explore in Wilkie Collins's *The Moonstone* (1868) in chapter two. By investigating how race significantly impacted where the legal boundaries of political power were drawn, I excavate a history of how racial difference maintained the legal coherence of sovereign power.

The legal developments that colonial administrators pursued in the colonies did not exist in a vacuum. Legal reforms in Britain were crucially impacted by the legal experiments in the colonies. One way these legal interactions were established was through the intersections between class, race, and gender. In chapter one, for example, I investigate how the

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<sup>20</sup> Christine Bolt, *Victorian Attitudes to Race* (Oxford and New York: Routledge, 1971); Gad Heuman, *The Killing Time: The Morant Bay Rebellion in Jamaica* (Knoxville, TN: University of Tennessee Press, 1994); Thomas Holt, *The Problem of Freedom: Race, Labor, and Politics in Jamaica* (Baltimore and London: Johns Hopkins University Press, 1992); Elizabeth Kolsky, *Colonial Justice in British India: White Violence and the Rule of Law* (Cambridge: Cambridge University Press, 2010).

<sup>21</sup> Kolsky, *Colonial Justice in British India: White Violence and the Rule of Law*, 86.

metropolitan's experience of the working class was integral to legal developments in colonial Jamaica in the immediate aftermath of the Morant Bay Rebellion in 1865. As Elizabeth Kolsky and Ian Haney Lopez have convincingly argued, law made race a stable category of identity that automatically determined one's access to certain privileges or denial of those privileges; my first chapter builds on this work to show how the legal debates of 1865 troubled the sometimes blurry, sometimes distinct line between British citizen/British-Jamaican subject, British working class/Jamaican working class.<sup>22</sup> Here, law's construction of race was interwoven with the dynamics of class struggle.

#### Chapter Outlines

In chapter one, "From Jamaica to England: The Legal Worlds of George Eliot's *Felix Holt*," I show how concepts of inheritance are integral to early discourses of citizenship in Jamaica in the 1830s and the 1860s. The Kingston Committee of Free People of Color demonstrate how they initiated the expansion of citizenship in Jamaica for people of mixed-race descent. Now, Jamaica's legal apparatus conferred rights to (elite) mixed-race descendants but did so by reinforcing whiteness or white hereditary blood status as the signal criterion for entitlements to citizenship. Eliot's novel reinforces the link between whiteness and citizenship in a parallel fashion: as the working-class campaign for their enfranchisement, Eliot dethrones the outdated aristocratic system of patrilineal inheritance to inaugurate another system of hereditary entitlement founded on nineteenth-century scientific notions of biological improvement. While the notion of heredity was important to aristocratic lineages and the birthright of the Englishman,

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<sup>22</sup> Ian Haney Lopez, *White by Law: The Legal Construction of Race* (New York: New York University Press, 2006); Elizabeth Kolsky, *Colonial Justice in British India* (2010).

*Felix Holt* illustrates the late 1860s moment when the idea of biological heredity is becoming dominant. Eliot constructs the ideal family: Felix and Esther are model citizens who have the rational/intelligible capacity to alter the course of their future offspring by exhibiting the qualities of “impressibility”, the affective and biological counterpart to Enlightenment ideals.

In chapter two, “Codifying Character: Securing Colonial Futures in Wilkie Collins’ *The Moonstone*,” I explore a form of anticipation that unwinds from the codification practices of the 1860s-1870s in India, a legal reform movement that, placing new emphasis on cultural and racial difference, sought to make native behavior predictable in the aftermath of the Indian Rebellion of 1857. I begin this chapter by interpreting Collins’ literary ambition to “trace the influence of character on circumstances,” as he wrote in the preface to *The Moonstone*, through the efforts of colonial lawmakers to forge a reciprocal relationship between a people’s character and their so-called modern institutions. Collins’ conception of literary ‘character’—derided by one contemporary critic as “absurd extravagance [...] not human enough to excite a faint of emotion”—springs into startling interest when we explore it with the invention of a rule of law responsible for disciplining native people along normative codes of behavior. I argue that Collins uses the epistolary form to expose ‘character’ as the production of routine assumptions, performances, and codes that stem from colonial legal reforms shaping the native subject along fixed categories of race, gender, and sexuality. The chapter then looks to the career of India’s most prolific codifier of the nineteenth century, James Fitzjames Stephen, to identify his legal interest in ‘character’ as a tool for securing a future rooted in colonization. By studying Stephen’s authoritarian aims alongside the epistolary function of *The Moonstone*, we shed new light on how conceptions of ‘character’ are linked to specific practices of colonial rule.

The second part of this chapter explores how Collins uses the epistolary form to make visible the production of national history-telling, documenting the way that colonial power tells its own version of history. In this well-known detective story, where the plot is narrated through a series of letter-testimonies by eleven different character-narrators, *The Moonstone* reconstructs its story in the form of a trial procedure. No single perspective is authoritatively trustworthy; instead, the story of the missing diamond comes to light from the consensus of all the divergent testimonies orchestrated by the “editor” of the story, the protagonist Franklin Blake. The purpose of amassing these testimonies, Franklin explains, is to create “a record of the facts to which those who come after us can appeal. This story ought to be told. And I have hit on the right way of telling it.”<sup>23</sup> Blake’s words here raise many points about *The Moonstone*’s self-reflective act of writing history and the authority involved in the act of writing. I’m arguing here that *The Moonstone* is a fictionalized archive that stages the active process of turning events and memories into facts for historical intelligibility and posterity. When Blake explains that the testimonies he’s compiled are so that “those who come after us can appeal”, the novel reveals the anticipatory function of its documentation, how its entire modus operandi is in service of a future yet to come.

In chapter three, “Colonial Comparison and Metropolitan Ethnography in *The Return of the Native*,” I turn to the tragic realism of Thomas Hardy’s *The Return of the Native*, a novel that treats the English countryside as primitive, backward, and untameable. In this chapter, I begin by showing the conceptual work Hardy draws on to create the space-time imaginary of civilizational development in this novel. Egdon Heath, the rural backwaters of the setting of this novel, is

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<sup>23</sup> Wilkie Collins, *The Moonstone* [1868], ed. John Sutherland, (Oxford: Oxford University Press, 2008), 7.

described through a space-time imaginary marshalling land, people, and culture on a developmental spectrum from a state of primitivism to modernity. I argue that *The Return of the Native* develops its ethnographic vision of Egdon Heath and its inhabitants from the anthropological breakthroughs occurring in colonies like India, where the study of people, land, and culture was used to further British legal policies abroad. To speak of Egdon Heath is to speak of an imaginary space epistemologically oriented towards a hierarchy placing ‘archaic’ ways of life outside of the modern present. Hardy’s narrator fits Egdon Heath into a type of historicism that makes distinctions between the “now” of modern civilization and the “not yet” of supposedly underdeveloped societies. This notion of history, as various postcolonial scholars have argued, implies the geographical and political realities of Europe’s colonial rule throughout the nineteenth century. *The Return of the Native* is not “about” Britain’s colonial practices abroad, yet its space-time imaginary draws from a political practice of colonialism that defined different human societies based on their distance or proximity to the modern present.

I argue that forms of comparison, observation, and distance structure Hardy’s depictions of English rural life and are most sharply articulated through the colonial origins of the anthropological discipline. In this chapter, I turn to the work and thought of British jurist and founder of comparative jurisprudence, Henry Maine, who was the first Anglo-Indian administrator to initiate attempts to study and incorporate knowledge of native beliefs and customs into the legal practices of imperial rule. As one of the founding figures of anthropology and sociology, Maine institutionalized a method of comparison that would go on to influence later colonial models of native society, newly defined as *traditional* society in opposition to *modern* society, within the discipline of anthropology throughout the twentieth century. His most influential theory of civilizational development, that all ancient societies transition from a state

of “status” (traditional, communal relations of kinship) to a state of “contract” (contractual relations between modern individuals), provided for the first time a universal formula to compare societies across historical time and geographical space, extract their similarities and differences, and establish their developmental phases. Rather than reproduce a traditionally hierarchical structure in which to rank societies, the status-to-contract model generated a spatialized grid where societies exist alongside one another, yet in different temporalities.

Hardy’s 1878 novel, then, is not simply immersed in ideologies of empire but it also connects the class politics of rural communities in the English countryside to the legal politics of colonialism. *The Return of the Native* charts connections among evolutionary theories of civilizational development, cultural difference, and colonial binaries that comment on this historical moment, the 1870s, when the British Empire was drastically revising its legal policies throughout its colonies. Departing from the binary of colony vs. metropole, Hardy’s novel provides new ways of thinking about their interdependence. I read *The Return of the Native* in terms provided by Henry Maine’s proto-anthropological thinking in his books *Ancient Law* and *Village Communities* in order to reveal the relationship between Hardy’s ethnographic depictions of rural class politics and the anthropological origins of imperial legislation abroad in India. By parsing the shared logic of these two sides of the discourse civilizational development, *The Return of the Native* underscores that in the 1870s, it was not just England’s modernizing project “at home” that fissured country and city, nor metropolitan prejudices of farming communities in the countryside, but a burgeoning discourse of anthropological thinking that equipped colonial administrators with the means of extending British hegemony into the future.

## CHAPTER ONE

### From Jamaica to England: The Legal Worlds of George Eliot's *Felix Holt*

In 1823, a group of freedmen of mixed-race origins met in Kingston, Jamaica to establish the Kingston Committee of Free People of Color and to organize a series of campaigns calling on the colonial legislature and the imperial government to grant free people of mixed descent equal rights with white people. Seeking to improve their marginalized position during the height of the anti-slavery movement in England, the Kingston Committee presented Jamaica's free people of color as loyal, law-abiding subjects unjustly denied the full liberties and privileges of British subjects despite their blood ties to European ancestry. As the descendents of white English fathers and free or enslaved African or Afro-Creole mothers, free Jamaicans of mixed lineage asserted they had been deprived of their civil rights because of a hierarchical racial system that upheld "that custom which had united the idea of degradation with mixture of blood."<sup>1</sup> Writing petitions and organizing mass campaign meetings, the Kingston Committee aimed to expose the unconstitutional basis for the exclusion of mixed-race descendents from the common law birthright principle, which guaranteed all the children of first English settlers born on the island the status of free denizens of England.<sup>2</sup> The problem, according to one member, was that the colonial legislature sanctioned the disinheritance of mixed-race descendents of Englishmen,

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<sup>1</sup> Quoted in Brooke Newman, *A Dark Inheritance: Blood, Race, and Sex in Colonial Jamaica* (New Haven: Yale University Press, 2018), 2. Campbell

<sup>2</sup> In their appeals, the Kingston Committee often referred to King Charles II 1661 proclamation encouraging the settlement of Jamaica, stating that "all children of the natural born subjects of England to be born in Jamaica shall from their respective births be reputed to be, and shall be, free denizens of England, with all the privileges of the free born subjects of England." See Newman, *A Dark Inheritance*, 2.

“declaring the colored community a distinct people,” disenfranchised and illegitimate on the basis of “mixture of blood and servility of origin.”<sup>3</sup>

During one campaign in 1823 the Kingston Committee appointed an Englishman, Michael Hanly, to appeal directly to the Crown on their behalf, knowing that a white man could garner considerable leverage.<sup>4</sup> In his correspondences with the Colonial Office, Hanly often invoked hereditary status as the key obstacle for people of mixed lineage to be recognized as legitimate British subjects entrusted with full rights and privileges as white British subjects. In one appeal, Hanly wrote to Lord Bathurst claiming that “whatever the original intention of the colonial legislature might have been in framing such regulations [regarding hereditary status], it never could have been to make their effects so injurious to posterity, thus visiting, not the sins of the fathers, but the misfortune of the mothers, upon the children into the third and fourth generation.” Now, it was time that “under the benevolent auspices of his present most gracious Majesty, when it is even in contemplation to grant manumission to slaves, the free coloured inhabitants of Jamaica may be admitted into the full participation of the rights of British subjects, in common with their European brethren.”<sup>5</sup>

Hanly’s letter is compelling because it reveals how the political enfranchisement of racialized people in Jamaica was intimately linked to the conjugal and forced sexual arrangements in which white and enslaved people lived. By referring to the “sins of the fathers”

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<sup>3</sup> Quoted in Newman, 2.

<sup>4</sup> The Kingston Committee of People of Colour was a small group of free men formed to put pressure on the colonial legislature to grant people of mixed descent equal rights with white people. See Gad Heuman, *Between Black and White: Race, Politics, and the Free Coloreds in Jamaica, 1792-1865* (Westport: Greenwood Press, 1981), 57-80; Newman, *A Dark Inheritance*, 1-24.

<sup>5</sup> Quoted in Newman, 263.

and the “misfortunes of the mothers” as “injurious” to the rights of mixed-race people, the letter captures how the struggle for citizenship among black and brown Jamaicans involved a set of associations regarding racial membership, the management of sex, and affective attachments this chapter explores. One’s hereditary status was a racialized and political affair, a contested site foundational to colonial governance and the management of empire. Consequently, Hanly’s letter is more telling still because it reveals how the Kingston Committee instrumentalized their hereditary blood status to redefine the parameters of an exclusive English birthright meant to secure lineages of white racial purity. By distancing themselves from their African-descended maternal lineage and emphasizing their status as inheritors of a paternal English bloodline, these men of color presented a challenge to the traditional view that mothers rather than fathers are origins of racial identity, determining one’s national belonging or exclusion. Hanly’s letter did not persuade officials at the Colonial Office, but such appeals underscore how the Kingston Committee harnessed the common law birthright principle to initiate the process of bringing mixed-race people into the realm of citizenship, creating the institutional pathways with which to legitimize their collective identities as the rightful descendants of the first English settlers.

I begin this chapter with the Kingston Committee to show how their activism illuminates the centrality of notions of hereditary status and genealogical inheritance to the construction of racial and national identities.<sup>6</sup> By crafting their grievances around the common law birthright principle—the legal basis for the preservation of exclusive white lineages along the lines of entitled citizenship—the Kingston Committee gave elasticity to the concept of British

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<sup>6</sup> For a groundbreaking analysis of the relationship between genealogy, inheritance, and race, see Alys Eve Weinbaum, *Wayward Reproductions: Genealogies of Race and Nation in Transatlantic Modern Thought* (Duke & London: Duke University Press, 2004), 1-60.

subjecthood by demonstrating that the security of exclusive genealogical origins is a fiction, socially constructed and subject to change over time. Their efforts were incrementally<sup>7</sup> realized in December 1830 when the Jamaica assembly passed an act mandating that “all the free brown and black population of this Island shall be entitled to have and enjoy all the rights, privileges, immunities and advantages whatsoever to which they would have been entitled if born and descended from white ancestors.”<sup>8</sup> While this law granted rights to free people of African and mixed descent, its language—the conditional clause “if”—was careful to set descendants of the enslaved apart from those “born and descended from white ancestors.” By reaffirming blood status and genealogy, this law ensured that the colonial government continued to control who was entitled to an English birthright inheritance, limiting who had access to rights, property, and political membership. Now, Jamaica’s legal apparatus conferred rights to mixed-race descendants, but did so by reinforcing whiteness or white hereditary blood status as the signal criterion for entitlements to citizenship.

This chapter is concerned with how notions of hereditary blood status and genealogical inheritance formed the ideological basis of an English nationalist project crucial to the development of citizenship rights in both Jamaica and England during the nineteenth century. I turn to one of the last “Condition of England” novels of the century, George Eliot’s *Felix Holt, the Radical* (1866), to explore how Eliot’s vision of modern nationalism promotes a worldview that steps away from miscegenation and toward white endogamy, partaking in a long-standing

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<sup>7</sup> Under the bill’s provisions, freedmen were not eligible to sit in the Assembly or the Council and could not fill any public offices unless they met property qualifications that made them eligible to vote. See Heuman, *Between Black and White*, 51.

<sup>8</sup> Quoted in Newman, *A Dark Inheritance*, 269. For more details about the act the assembly passed, see Heuman, *Between Black and White*, 23-34.

racialized tradition celebrating the birthright of freeborn (white) Englishmen and the English nation. While *Felix Holt* does provide a critique of the primogeniture system of aristocratic inheritance, it is equally anxious and unsure about how the arrival of democracy will impact long-held notions of blood purity stemming from English colonial discourses. This chapter uses the inheritance-legal plot of *Felix Holt* to trace how colonial and metropolitan attitudes about hereditary blood status and inheritance intersected in vital ways. What *Felix Holt* offers is an investigation into not only how mixed-race lineage disturbs England's legalized system of inheritance, but also how its challenge to legitimate kinship is part of a much larger debate about British subjecthood and citizenship during a time when England was revising the legal criteria for political membership along working-class lines. The legal machinations of Eliot's novel, I argue, function as a technology to ensure the continuation of blood inheritance amidst the introduction of democratic reform. Through its legal arrangements, the novel overthrows the hegemony of ancient genealogical birthrights and enshrines British subjecthood with a new racial logic that identifies the white civilized individual as the kernel of liberal democracy.

Published one year before the Second Reform Act of 1867 and set during the events immediately following the Reform Act of 1832, *Felix Holt* wrestles with its contemporary concern over who qualifies for political membership, a question that most obviously reflects the novel's focus on the necessity of working-class education as a prerequisite for the franchise, a conservative agenda embodied by the titular protagonist.<sup>9</sup> The novel's split representation of the

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<sup>9</sup> For the well-established consensus of Eliot's conservative leanings in this novel, see Isobel Armstrong, *Novel Politics: Democratic Imaginations in Nineteenth-Century Fiction* (New York: Oxford University Press, 2016), 16-28; Hilda Hollis, "Felix Holt: Independent Spokesman or Eliot's Mouthpiece?" *ELH* 68, no. 1 (2001): 155-177; Sally Shuttleworth, *George Eliot and Nineteenth-Century Science: the Make Believe of a Beginning* (Cambridge: Cambridge University Press, 1984), 132.

unenfranchised working class and the inherited aristocracy registers England's shifting models of political belonging through law and hereditary status, and, I argue, develops a blueprint for a new system of hereditary management that crafts the civilized body with the qualities of biological improvement for its self-determination and political inclusion, that, overtime, could intelligently shape the genealogies of future generations. Under this model of heredity, the novel restates questions like what entails a legitimate, legally recognized bloodline? To what extent does hereditary blood status determine one's individual rights and privileges? Who gets excluded from these entitlements? The novel's answers to these questions are embodied in the hero-protagonist Felix Holt and Esther Lyon, who are Eliot's models of the legitimate bearer of rights. I argue that this solution furthers the project of broader colonial policies that accorded liberties and privileges on the basis of purity of descent, bloodline, and genealogy.<sup>10</sup> Consequently, the reading of *Felix Holt* offered here exposes genealogy as a raced and reproductive object, pointing to the ways we can transform genealogy into a critical tool used to contest biological truths rooted in racial belonging and conceptions of citizenship.

The concerns raised by a 'Condition of England' novel like *Felix Holt* resonate beyond England. As the English working class campaigned for the extension of the franchise during the mid-1860s, the news of the colonial insurrection at Morant Bay reached England at the end of 1865, triggering the well-documented public controversy over the Governor of Jamaica, Edward John Eyre, and his use of martial law to suppress the uprising.<sup>11</sup> Suspending civil law in the

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<sup>10</sup> Newman, 10.

<sup>11</sup> For this historical context, I draw on the work of Catherine Hall, *Civilizing Subjects: Metropole and Colony in the English Imagination, 1830-1867* (Chicago: University of Chicago Press, 2002); Gad Heuman, *The Killing Time: The Morant Bay Rebellion in Jamaica* (Knoxville: University of Tennessee Press, 1994); Rande W. Kostal *A Jurisprudence of Power: Victorian Empire and the Rule of Law* (Oxford: Oxford University Press, 2005); Sarah Winter, "On the

eastern parts of the island and sending troops to Morant Bay with orders to kill, Governor Eyre's spree of violence resulted in the death of 439 Jamaican peasants and the flogging of 600 more, sparking renewed concerns about black and brown civil rights and national belonging the Kingston Committee had confronted four decades earlier. At the center of this Jamaica Controversy was Eyre's court-martial order for the execution of George William Gordon, a member of the Jamaican House of Assembly who Eyre mistakenly believed to have inspired the rebellion.<sup>12</sup> As an educated landowner and prominent member of a small, growing group of black and brown elites, Gordon's mixed-race heritage challenged Jamaican colonial legislature on the neat criteria of pure white bloodline and property ownership. Because he was the illegitimate son of a white planter and a woman born into slavery, Gordon's unjust execution raised questions about his legal rights under English common law birthright. Given Gordon's controversial claims to English citizenship, had he been lawfully arrested, transported, and executed under court-martial? As a free man of color with blood claims to English civil and property rights, had Gordon been tried as an English civilian?

These questions are at the center of six letters on martial law published consecutively in the *Daily News* between November and December 1866 by lawyer and legal theorist Frederic Harrison. As a member of the Jamaica Committee, formed to oppose Eyre's Defense Committee and demand the governor's prosecution, Harrison wrote these letters to make the case that Eyre's

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Morant Bay Rebellion in Jamaica and the Governor Eyre-George William Gordon Controversy, 1865-70," *BRANCH: Britain, Representation and Nineteenth-Century History*. Web. Accessed on 9 July 2023.

<sup>12</sup> In the years leading up the rebellion, Gordon had been a prominent and harsh critic of Eyre's economic policies in the Jamaica Assembly, and also advocated for the rights of Jamaica's poor Black population in public speeches and printed proclamations. It was possible to interpret his speeches as a call to action against the oppression of the plantocracy. See Winter, "On the Morant Bay Rebellion," 1 and Heuman, *Between Black and White*, 190.

use of martial law during the uprising undermined the emancipatory promises of imperial belonging that secured rights and protections irrespective of race. Imploring English metropolitan readers of the *Daily News*, Harrison asks rhetorically, “If [Black Jamaicans] are not [citizens], what are they? If they have not the law, what law have they?”<sup>13</sup> In the letters, Harrison recognizes the unwillingness of the general public, government officials, and metropolitan elites to apply the category of ‘citizen’ to freedpeople, but his critique against Eyre had less to do with bringing justice and freedom to Black Jamaican experience and more to do with how the abuse of martial law threatened the integrity of British constitutional principles. As historian Rande W. Kostal writes, Harrison’s letters were “composed as stern warnings: Englishmen could ignore the gross injustices done to Jamaicans only at great peril to their own civil rights” (247). I turn to these letters in order to show how the concept of citizenship in England was inextricably linked to Black and Brown civil rights in Jamaica. His letters importantly return to the common law birthright principle and resuscitate questions about genealogical inheritance and racial identity.

### “Unhappy Inheritances”

How does Eliot’s novel meditate upon the intersection of race, citizenship, and nation? I take the position that *Felix Holt* illuminates the centrality of genealogical constructions in the legal wrangling over citizenship rights and political membership in England and in Jamaica. Published on the eve of the passing of the second reform bill, Eliot’s novel joins popular discussions about the enfranchisement of the working class with the ideals of a national heritage that, founded on inherited rights and property through paternal birthright and bloodline, is on the

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<sup>13</sup> Frederic Harrison, *Six Letters to “The Daily News”* in the *Jamaica Papers*, no. 5 (Fleet Street, London: the Jamaica Committee, 1867), 6.

wane. What emerges, Eliot's novel foretells, is a world of hereditary management negotiated by the individual, not the family; a narrative in which hereditary malleability supersedes fixed lines of descent. The central problem in *Felix Holt* is that the exclusive primogeniture system of aristocratic inheritance is no longer tenable, but the program for hereditary transformation entails a widening of democracy in which a racialized and thus uncivilized majority may one day inherit the English nation. I hope to show that the novel's anxieties about working-class enfranchisement and British reform intersect importantly with questions about racial difference raised by the Morant Bay Rebellion of 1865, even though Jamaica does not appear in the novel.<sup>14</sup>

By situating *Felix Holt*'s concern over working-class enfranchisement alongside the Jamaica Controversy, Eliot's politics on reform shed new light on the interdependence of racial difference and citizenship. Centering Felix as England's "demagogue of a new sort" and his belief in moral responsibility over electoral reform, the novel has inspired a long tradition of criticism that rightly critiques Eliot's lampooning of the working class.<sup>15</sup> In response, some literary critics have tried to redeem the novel from Eliot's conservative politics by identifying the democratizing tendencies of its plot structure. What is missing from these assessments is a proper consideration for the role that inheritance plays in Eliot's construction of the "right" kind of citizen working-class people need to become before they can be allowed to vote. Critics have not paid enough attention to the ways Eliot portrays Felix Holt's ideals through the discourse of

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<sup>14</sup> In this respect, I follow the formal structure of studies like Catherine Hall's *Civilizing Subjects* (2002), Rande W. Kostal's *A Jurisprudence of Power* (2005), and Tim Watson's *Caribbean Culture and British Fiction in the Atlantic World, 1780-1870* (Cambridge and New York: Cambridge University Press, 2011). Each of these studies treat the Jamaican Controversy of 1865 and working-class enfranchisement in the 1860s on the same continuum.

<sup>15</sup> For example see Armstrong, *Novel Politics* (2016), 16-28; and Colene Bentley, "Democratic Citizenship in Felix Holt," *Nineteenth-Century Contexts: An Interdisciplinary Journal* 24, no. 3 (2002): 271-289.

hereditary racialism. Before turning to the novel, I look to Eliot's address to the working class published in *Blackwood's Magazine*, an elite journal.<sup>16</sup>

Stirred by the recent passing of the Second Reform Bill of 1867, which added close to one million men to the electoral roll, John Blackwood invited Eliot to weigh in on the expansion of the franchise in *Blackwood's Magazine*. "You have the knowledge of what the working man ought to do," wrote Blackwood to Eliot less than a year after the publication of *Felix Holt*, "and the real feeling toward them which will give a force to your words which no ordinary address could possibly possess."<sup>17</sup> Titled "Address to Working Men" and signed by a 'Felix Holt', the article resurrected the fictionalized working-class hero by sermonizing on the moral responsibilities that accompany voting power (patience, obedience of the law, rational judgment) and urging the working classes that it is their self-governance, not ignorance, that is a preliminary requirement for their national belonging. There is nothing in this document that redeems Eliot's distrust of working-class enfranchisement, but it does give some insight into how constructions of citizenship were legitimized by notions of hereditary transmission during the nineteenth century. To characterize what prevents the working class from becoming capable citizens, "Felix Holt" combines themes of sickness and heritage to warn readers of the "evils under which our country now suffers":

I suppose there is hardly anything more to be shuddered at than that part of the history of disease which shows how, when a man injures his constitution by a life of vicious excess, his

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<sup>16</sup> The 'Address' was published as a leading article in *Blackwood's Edinburgh Magazine* in January 1868. All in-text citation is from "Appendix B: Address to Working Men by Felix Holt" in George Eliot, *Felix Holt: The Radical*, ed. by Lynda Mugglestone (London and New York: Penguin Books, 1995 [1866]), 483-499.

<sup>17</sup> Quoted in *Felix Holt*, "Address to Working Men," 483.

children and grandchildren inherit diseased bodies and minds, and how the effects of that unhappy inheritance continue to spread beyond our calculation.<sup>18</sup>

By “shuddering” at “diseased bodies and minds” transmitted down the generations of the English populous, Felix presents a notion of heredity that must be managed by the nation-state.

Generational outcomes begin at the level of the individual who, if “living a life of vicious excess”, will pass on harmful traits that regulate and compound inherited results over time, producing an “unhappy inheritance that continue[s] to spread beyond our calculation.”

“Calculation” is a key term in Felix’s invective—it is culled from the objectives of a biopolitical regime seeking to predict, regularize, and manage the organic biological processes of living beings, arranging the individual body as a unit in an aggregated population. As Michel Foucault explains in his 1970s lectures on biopolitical democracy, this form of governmentality is dependent on statistical rationalities that identify which qualities or traits are beneficial to the population’s growth and which ones threaten its ongoing survival.<sup>19</sup> In the passage above, Felix assesses the individual person whose failure to become a tractable and productive “citizen” is passed on to their descendants. “Break[ing] the yoke of ignorance,” begins the elimination of such “unhappy inheritances,” Felix declares later in the article, and requires obeying the wisdom of “the endowed classes [who], in their inheritance from the past, hold the precious material without which no worthy, noble future can be moulded.”<sup>20</sup> In this paternal portrayal of what the working class “ought to do” (Blackwood’s words), Felix aims to synchronize the working-class

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<sup>18</sup> Felix Holt, “Address to Working Men,” 487.

<sup>19</sup> Michel Foucault, “*Society Must Be Defended*”: *Lectures at the Collège de France, 1975-1976*, trans. David Macey (New York: Picador, 2003) and *Security, Territory, Population: Lectures at the Collège de France, 1977-1978*, trans. Graham Burchell (New York: Picador, 2007).

<sup>20</sup> “Address to Working Men”, 498.

subject with the development of the English nation. “Here,” Felix instructs his peers, “we have to submit ourselves to the great law of inheritance.”<sup>21</sup> In sum, the essay not only links criteria of citizenship with biological processes, it also conceives the transfer of heredity as an innate, but not immutable biological substance. Felix’s point is about improving the hereditary material of working-class groups.

In this way, Eliot makes explicit the role of the individual and genealogical inheritance in the process of national development. It is fitting, then, that in the opening chapters of *Felix Holt*, Eliot makes an intuitive association between genealogy and national stability. The villages of Treby Magna, Eliot’s nostalgic narrator reflects, used to be communities of continued preservation where “town and country” had “pulse in common,” where farmers “stood by their fallows,” and tradesmen “connected by business, if not by blood.”<sup>22</sup> In this rural landscape of close relations, inhabitants are “kept safely in the *via media* of indifference” and undisturbed by catastrophic world events, “liv[ing] quietly through the great earthquakes of the French Revolution and the Napoleonic Wars,” remaining “unmoved by the ‘Rights of Man’.”<sup>23</sup> The inhabitants of Treby Magna live in quiet stability, but the narrator presciently states that this “scene would change.”<sup>24</sup> With the rise of manufacturing, mining, and the railway system, the narrator documents Treby Magna’s contact with industrial modernity with much reluctance, expressing these rapid changes from the vantage point of a hypothetical traveler on a stagecoach

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<sup>21</sup> “Address to Working Men”, 499.

<sup>22</sup> Eliot, *Felix Holt*, 7, 46.

<sup>23</sup> Eliot, 5, 49.

<sup>24</sup> Eliot, 6.

“passing rapidly from one phase of English life to another.”<sup>25</sup> To temper these profound changes, Eliot shrinks their enormity into the unit of the individual life within a web of genealogical ties:

And such stories often come to be fine in a sense that is not ironical. For there is seldom any wrong-doing which does not carry along with it some downfall of blindly-climbing hopes, some hard entail of suffering, some quickly-satiated desire that survives, with the life in death of old paralytic vice, to see itself cursed by its woeful progeny—some tragic mark of kinship in the one brief life to the far-stretching life that went before, and to the life that is to come after, such as has raised the pity and terror of men ever since they began to discern between will and destiny...Many an inherited sorrow that has marred a life has been breathed into no human ear.<sup>26</sup>

Throughout this passage, the language of genealogy inflects the narrator’s description of the disintegration of Treby Magna’s kinship community. Here, in a move that connects kinship with the abstract proportions of modernity, Eliot trains the reader to connect large-scale political change with the relations of the family, lineage, and inheritance. The emphasis on the tactile dimensions of a faulty inheritance—“hard entail”, “tragic mark”, “marred a life”, and “no human ear”—is particularly suggestive in so far as a “wrong-doing,” or piece of hereditary material, survives and is transmitted through the physical nature of biological inheritance. Like the “diseased bodies and minds” that result in the “unhappy inheritances” Felix warns about in “Address to Working Men,” this passage laments the long-enduring effects of genealogical transgressions. “These things are a parable,” the narrator concludes this section.<sup>27</sup> As parable, the

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<sup>25</sup> Eliot, 7.

<sup>26</sup> Eliot, 10-11.

<sup>27</sup> Eliot, 11.

passage invites readers to glean a lesson from a history of hereditary lineage gone awry. Even before the novel properly introduces the inheritance schemes of the Transome family, the parable of the “inherited sorrow” throws into question next heir of the Transome estate.

Nostalgia for traditional community runs through the early pages of the novel, yet Eliot documents the changing conditions of country life in order to challenge the traditional power of the aristocratic class. Deeply skeptical about the primogeniture system of aristocratic entitlements of property and liberties, Eliot structures the novel in part through a critique of the genealogical failings of the English aristocracy: interrupted bloodlines, contaminated hereditary traits, lineages in decline arrange the story of the Transome family, the prefix of the family name ‘trans’—to move across or through—stresses this ironically. Generations earlier, Eliot’s narrator informs the reader, the male heir to the Transome estate sold his rights of inheritance to a lawyer-cousin named Durfey, a sale which alienates all future Transomes from the inheritance. Known as a base-fee, this sale creates the conditions for the Durfey, who adopt the name ‘Transome’ henceforth and from which the current Transomes in the novel have descended, to take over their rights of inheritance. By the terms of the sale, so long as one of the descendants of the original Transome line remains alive, the Durfey-Transomes retain their rights to the Transome estate and its entitlements. This convoluted patrilineal descent is punctuated by the corrupt machinations of the Transome family lawyer, Jermyn, and the self-interest political agents, Johnson and Christian.<sup>28</sup>

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<sup>28</sup> For a helpful breakdown of the novel’s legal complexities, see “Appendix A” in *Felix Holt*, 479-482.

Eliot goes further still. Harold Transome, we learn towards the end of the novel, is the love child of his mother's concealed extra-marital affair with Jermyn, meaning that Harold is not a descendent of the Durfey-Transome lineage—his rights of inheritance rest on legal manufacture. Furthermore, according to the terms of the sale, should the original Transome line of descent fail or terminate, the rights of inheritance would descend 'in remainder' to the family of the Bycliffes. Thus, when the last living descendent of the original Transome lineage, Tommy Trounsom, dies in the election riot, the rights of inheritance revert to Esther Lyon, the biological daughter of the late Maurice Christian Bycliffe. Unlike the generic pattern of earlier inheritance plots like *Oliver Twist* (1837), *Sybil* (1845), *Jane Eyre* (1847), or *North and South* (1854), both Harold and Esther inherit through the complicated arrangements of the law of entail, not through bloodline or birthright. Such legal machinations required Eliot to consult legal historian and theorist Frederic Harrison, who even went as far as creating a "legal skeleton" of Eliot's plot structure.<sup>29</sup> In *Felix Holt*, ancient genealogical birthrights strive to maintain the system of inheritance while contorted legal arrangements point towards the artifice of its legitimacy.

Readers of *Felix Holt* have often been frustrated by the legal maneuvers Eliot takes to construct the genealogical lines of the plot. The plot is "rusty," "vulgar," "essentially made up, and its development is forced," wrote Henry James in an 1866 review.<sup>30</sup> Similarly, journalist and statesman John Morley wrote in his review of the novel, "It is a pity that the plot of the story, which runs upon the gradual disclosure of a claim to some property, happens to flow from utterly remote and far-off incidents, instead of flowing from the mental movement of the principal

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<sup>29</sup> Frederic Harrison to George Eliot, 27 January 1866, London, Tinker Collection, Beinecke Rare Book & Manuscript Library, Yale University Library.

<sup>30</sup> Quoted in *George Eliot: Critical Heritage* ed. Carroll David (London: Routledge, 1995), 273-277.

actors...the plot and the movement of character rather jar and clang together.”<sup>31</sup> For the most part, modern readings of *Felix Holt* have retained such attitudes about Eliot’s plot: “The unpopularity of *Felix Holt, the Radical* has usually, and with some justice, been attributed to the intricate legal plot,” as Fred Thomson, for example, has explained. In the article “The Failure of Realism: Felix Holt”, Catherine Gallagher describes Eliot’s realism as containing “certain imbalances and contradictions require[ing] Dickensian intricacies of plot.”<sup>32</sup> The novel’s most recent editor, Lynda Mugglestone, has described the “highly complex legal plot” as one of the “chief problems” of the novel.<sup>33</sup> Against this critical landscape, Isobel Armstrong’s *Novel Politics* makes the controversial argument that *Felix Holt*’s “elaborate genealogical plot is not often taken seriously, but it needs to be.”<sup>34</sup> In her notable reading of the novel, Armstrong concludes that in *Felix Holt* “[g]enealogy is disrupted. Inheritance comes into disrepute. Indeed, it is based on fiction.”<sup>35</sup> Armstrong, whose account understands *Felix Holt*’s genealogical skepticism as “a clue to democratic imagination,” overlooks the intersection between the plot’s legal imbroglio and its obsession with documenting “pure” and “impure” bloodlines.<sup>36</sup> Tim Watson, in his superb reading of the novel, investigates how the problem of “descent, inheritance, and miscegenation” are crucial to the complicated inheritance plot.<sup>37</sup> My reading runs parallel to Watson’s in that I too am arguing that the doctrine of blood and breeding is crucial to emerging scientific theories of race and ancient genealogical birthrights. My reading

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<sup>31</sup> Quoted in *George Eliot: Critical Heritage* ed. Carroll David ( London: Routledge, 1995), 273-277.

<sup>32</sup> Catherine Gallagher, “The Failure of Realism: Felix Holt,” *Nineteenth-Century Fiction* 35, no. 3 (1980): 372-384, 379.

<sup>33</sup> Mugglestone, *Felix Holt*, 479.

<sup>34</sup> Armstrong, *Novel Politics*, 17.

<sup>35</sup> Armstrong, 24.

<sup>36</sup> Armstrong, 26.

<sup>37</sup> Watson, *Caribbean Culture and British Fiction in the Atlantic World*, 154-186.

expands on Watson's work by bringing these connections to constructions of citizenship in both Jamaica and England.

*Felix Holt's* diegetic action begins with Mrs. Transome waiting for the return of her son Harold who has been working in Smyrna for the last 15 years as a merchant and banker. As a high-born lady, Mrs. Transome is nervous because Harold is returning with the child he shares with 'his Greek wife...no longer living', a little boy who is "the finest and most desirable of heirs and grandsons," Eliot's narrator notes with irony.<sup>38</sup> Despite these reservations, Mrs. Transome is eager to be reunited with her son, but the reality of their reunion, much to her disappointment, is marked by unfamiliarity, "a sense of strangeness came upon her like a terror."<sup>39</sup> In fact,

[i]f she had seen [Harold] in a crowd, she might have looked at him without recognition—not, however, without startled wonder, for though the likeness to herself was no longer striking, the years had overlaid it with another likeness which would have arrested her.<sup>40</sup>

With the thought of Harold's unknown heir-born son on her mind and his [Harold's] "dark face under a red traveling-cap" in front of her, Mrs. Transome senses that kinship with her son has been severed, an estrangement expressed as racial difference. In addition to Harold's changed appearance, we learn later that Harold's culinary tastes, habits of dress, and attachments have, too, changed. When Harold announces he's running as 'radical' in the coming elections, a

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<sup>38</sup> Eliot, 25.

<sup>39</sup> Eliot, 16.

<sup>40</sup> Eliot, 16-17.

massive departure from the family's traditionally Tory leanings, Mrs. Transome reasons that "here was a distinct confirmation of the vague but strong feeling that her son was a stranger to her." For Mrs. Transome, there is bitter comfort in reducing Harold's strangeness to his adoption of radicalism, yet racial and cultural difference stick stubbornly to her understanding of her son's transformation: Harold's radicalism made it "impossible to adjust her hopes and notions of a dignified life as if her son had said that he had been converted to Mahometanism at Smyrna and had four wives, instead of one son."<sup>41</sup> The comparison between Harold and the Orient insists not only on Harold's divergence from an aristocratic system of exclusive birthright but on the failure to reproduce the national genealogy of whiteness.

The most obvious way *Felix Holt* traces the link between interracial sex and the breakdown of the aristocratic system of patrilineal inheritance is through the depictions of Harold's mixed-race child, Harry, who is the next heir of Transome Court. Presented in fragmented and reified form, Harry's character is mentioned only a handful of times, although it is easy to gather that his racialized identity is a source of discomfort for the Transome family and their aristocratic circle. Over the course of the novel Harry is referred to as a "little savage" and a "broken lispng polyglot," likened to a "wild animal", a "great tropical bird", a "barbaric prince," among other derogatory descriptors.<sup>42</sup> Repeatedly, references to Harry are opportunities to blur the human/animal divide. Similarly, Eliot's narrator documents Harry's undynamic human state, relying on the affordances of simile to showcase his uncivilized manner stemming from the "Other." The few scenes where Harry is given extended narrative space, he causes mischief: biting Mrs. Transome's arm, scattering her medicine on the floor, trampling on Mr. Transome's

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<sup>41</sup> Eliot, 18.

<sup>42</sup> Eliot, 409.

valuable bug collection. In these bouts of domestic rebellion, Harry's actions showcase an intractable body unfit for social life, rendering it incapable of self-constitution. Perpetually stuck in a state of uncivilized, Harry's character gives insight into the novel's position on mixed-race heirs and their (il)legitimate claims to national belonging, citizenship, and property.

In Harry we see the culmination of one of two forms of character minoriness Alex Woloch describes in *The One vs. the Many* (2003) as structuring the nineteenth-century novel as a whole: the minor character as eccentric—an outcast, a troublemaker, an excess.<sup>43</sup> Harry's unintelligible speech and physical appearance, as well as his fleeting entrances and exits throughout the novel, all stress his opposing nature to Eliot's vision of English social and political life. Alongside Harry's character, the novel generates the opposite of his antics, presenting a minor character as docile laborer, whose inner being is denied narrative space and whose exterior form is reduced to a singular function, static and hardened, much like Harry. This figure is Harold's servant, "olive-skinned Dominic," who Harold returns with from the Mediterranean.<sup>44</sup> Like Harry, the particularity of Dominic's racial and ethnic identity is dismissed under the aegis of Harold's apathy. Harold describes Dominic as being from

no country in particular. I don't know whether he's most of a Jew, a Greek, an Italian, or a Spaniard. He speaks five or six languages, one as well as another. He's cook, valet, major-domo, and secretary all in one; and what's more, he's an affectionate fellow—I can trust to his attachment.<sup>45</sup>

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<sup>43</sup> Alex Woloch, *The One vs. the Many: Minor Characters and the Space of the Protagonist in the Novel* (Princeton and Oxford: Princeton University Press, 2003).

<sup>44</sup> Eliot, 37.

<sup>45</sup> Eliot, 37.

This is the most information we receive of Dominic's character. In a novel that arranges its plot around a principle of inheritance based on common descent from one original set of parents, Dominic's untraceable origins diverge from the model of hereditary status Eliot privileges, revealing which kinship relations are acknowledged and which ones are rejected or ignored. Here, Harold doesn't know the particularities of Dominic's racial and ethnic identity, but he has crystal-clear notions about his laboring capacities—"he's cook, valet, major-domo, and secretary all in one."<sup>46</sup> Reduced to this labor, Dominic's racialized body is suitable only as a site of extraction. Throughout, Eliot emphasizes Dominic's instrumental role in clearing traces or mitigating aspects that do not fit life at Transome Court. Thus he is frequently "tak[ing] the child away" or "rescuing" others from little Harry's "tyrannies."<sup>47</sup> Indeed, Eliot's narrator describes Dominic as "skilful [...] always at hand to meet his master's demands, and his bland presence diffused itself like a smile over the household, infecting the gloomy English mind with the belief that life was easy, and making his real predominance seem as soft and light as a down quilt."<sup>48</sup> Confined to the domestic familial space of Transome Court, he is portrayed in a constant state of active yet quiet labor, only useful to Eliot's worldview by his ability to labor, rendered raw biological material suitable for the cultivation of the upperclasses, but never himself. Between Dominic and Harry, in Woloch's terms, there lies the "pervasive extremes" of minor characters, "the *eccentric* and the *worker*." In both cases, "the actualization of a human being is denied."<sup>49</sup>

#### Esther's Hereditary Management

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<sup>46</sup> Eliot, 37.

<sup>47</sup> Eliot, 198.

<sup>48</sup> Eliot, 327.

<sup>49</sup> Woloch, 25.

In its exposure of the sham of aristocratic legitimacy, *Felix Holt* overthrows the power structure of ancient genealogical birthrights only to inaugurate another system of hereditary entitlement founded on nineteenth-century scientific notions of biological improvement. Rather than locating legitimacy within a primogeniture system of aristocratic entitlements of property and liberties, *Felix Holt* locates legitimacy in the individual capable of acquiring the physical and mental capacities of reason and self-governance to be inherited by generations to come. Unlike older models of hereditary determinism used to refer to the transmission of property, titles, and bloodlines within families, this newer assessment of heredity, culled from prominent theories of evolutionary discourse, gave primacy to species' control over intention, habit, memory, that, over time, could intelligently shape the genealogy of future generations. Eliot locates this newer hereditary potential in Felix and Esther, a model of genealogy that links individual agency, not predetermined lines of descent, to generational outcome. This shift in hereditary schematic is summed up in Felix's declared alignment with a different model of kinship than that of hereditary determinism: "It is held reasonable enough to toil for the fortunes of a family, though it may turn to imbecility in the third generation. I choose a family with more chances in it."<sup>50</sup>

"Chance," of course, recalls Charles Darwin's theory of natural selection, the notion that the individual organism's chance of survival is determined by environmental pressures<sup>51</sup>, but I will show in the following pages that Esther's and Felix's rejection of hereditary determinism is arguably most similar to notions of inheritance proposed by Jean-Baptiste Lamarck, founder of evolutionary theory, and who placed the agency of species growth and change under the control

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<sup>50</sup> Eliot, 263.

<sup>51</sup> Gillian Beer, *Darwin's Plots: Evolutionary Narrative in Darwin, George Eliot, and Nineteenth-Century Fiction* (New York: Cambridge University Press, 2009 [1983]), 18.

of the individual organism's relationship with its environment, an idea that is strikingly different from the Darwinian concept of natural selection.<sup>52</sup> Studies such as Gillian Beer's still-unrivalled *Darwin's Plots: Evolutionary Narrative in Darwin, George Eliot and Nineteenth-Century Fiction* (1983) and Nancy L. Paxton's *George Eliot and Herbert Spencer: Feminism, Evolutionism, and the Reconstruction of Gender* (1991) have investigated how evolutionary thought by Darwin, Spencer, and Charles Lyell have structured Eliot's oeuvre, but the influence of Lamarck's theories on her work remains underexplored.<sup>53</sup> The relevance of Darwinian thought to Eliot's work cannot be overstated, but it is also true that Eliot studied Lamarck's work well before reading *Origin of Species*, and commissioned an article on his work for *The Westminster Review* in the early 1850s.<sup>54</sup> Unlike Darwin's theory that species change occurs through chance (random variation) and the struggle for existence, Lamarck's theory proposed that intention and reflexive habit were at the core of species change and improvement, a notion that would become the foundational principle of theories of race-improvement for "neo-Lamarckian" scientists throughout the nineteenth century.<sup>55</sup> Under a Lamarckian rubric, self-control and reflective feeling could manage the mutability of the body over time, granting individuals, and especially the so-called civilized, control over their own evolutionary development.<sup>56</sup> In doing away with a familial system of inheritance based on predetermined bloodlines, property, and titles, *Felix Holt*

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<sup>52</sup> Kyla Schuller, *The Biopolitics of Feeling: Race, Sex, and Science in the Nineteenth Century* (Durham and London: Duke University Press, 2018), 48.

<sup>53</sup> Nancy L. Paxton, *George Eliot and Herbert Spencer: Feminism, Evolutionism, and the Reconstruction of Gender* (Princeton: Princeton University Press, 1991).

<sup>54</sup> Beer, *Darwin's Plots*, 146.

<sup>55</sup> Schuller, *The Biopolitics of Feeling*, 36.

<sup>56</sup> Schuller, 37.

draws on a Lamarckian model of inheritance that shapes genealogical outcomes beginning at the level of individual self-making.

I will not attempt to give a comprehensive account of the influence of Lamarckian thought on Eliot's work in *Felix Holt*, but I do show how Esther's political self-development is constructed along the lines of a Lamarckian framework of hereditary management that establishes the body as a pliable site of hereditary qualities, sensations, and habits that "accumulate over the life span of individuals and the evolutionary time of races" (Schuller 7). Kyla Schuller's *The Biopolitics of Feeling: Race, Sex, and Science in the Nineteenth Century* argues that this Lamarckian model established bodily sensation as a technology of biopower that regulates the biological phenomenon of the population, that, over time, came to "racially differentiate the civilized and uncivilized in terms of shared cultural traditions, nervous capacity, and physicality" (19). Schuller demonstrates how nineteenth-century evolutionary scientists, writers, abolitionists, and social reformers drew on the discourse of sentimentalism and sympathy to assert the body's capacity to intelligently transform its sensory feeling into reflexive emotion that ensured the constitution of the self and the progressive development of civilization. All bodies have the capacity for physical sensation and emotional expression, Neo-Lamarckian scientists posited, but it was the achievement of the most advanced to transform bodily "impressibility" into intelligent feelings for the benefit of racial progress.<sup>57</sup> Under the *sentimental politics of life*, the term Schuller gives to a style of governmentality managing the nervous system's response to sensory impressions through self-control, sympathy, and

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<sup>57</sup> According to Schuller, impressibility is an important concept for neo-Lamarckians. She writes, "Impressibility functioned as a nineteenth-century precursor of the notion of affect, or the circulation of energy throughout a milieu in a manner that binds bodies together through common stimulation" (10).

adaptability, the white body was rendered malleable, having the capacity to affect and be affected, and thus “could be brought in synchrony with national and imperial progress.”<sup>58</sup>

Racialized bodies, on the other hand, were deemed intractable, lacking the regulatory capacity to respond appropriately to their stimulations, and thus reflected their “stagnant development lodged in the past.”<sup>59</sup>

Under biopower, feelings serve as measurements of one’s civilizational, racial, and gender status. Through the rubric of nineteenth-century sentimentalism, impressible bodies could learn to master their sensory impulses and direct the development of themselves, a process understood to transmit mental development as well as physical changes down the generations, linking the development of the individual with the species over time.<sup>60</sup> In this context, as Schuller argues, “race and sex emerge not as interior genetic or psychosocial attributes of fixed organisms, but as biopolitical categories ranking the degree to which each body is acted on and/or acts on the larger population—which reaches backward into evolutionary time.”<sup>61</sup> What this means is that the modern hierarchies of race, sex, and species emerge from accumulative calculations of the individual body’s differential degrees of impressibility, and indeed become the dominion of state power and national development. With the help of sentimentalism, biopower seeks to transform bodily sensation into security mechanisms aimed to regulate and optimize the biological processes of the population.

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<sup>58</sup> Schuller, 57.

<sup>59</sup> Schuller, 54.

<sup>60</sup> Schuller, 48.

<sup>61</sup> Schuller, 33-34.

Following Schuller's work, I argue that Eliot's vision of England's future development in the wake of political reform depends on the self-regulation of sensation for the nation's most vulnerable members: the racialized, the working class and, in particular, women. In the biopolitical worlding of *Felix Holt*, racialized characters such as little Harry, the servant Dominic, and to an extent, Harold, are relegated to various degrees of mental and bodily stagnation or decline, lacking the capacity of impressibility, and thus deemed a threat to the health and survival of future generations. And while the novel does not explore the sensory experiences of working-class people with any kind of nuance, as many readers have noted, it is focused on the sensory dimensions of middle-class women, particularly through Esther's character.<sup>62</sup> Transformed from superficial middle-class woman into a middle-class woman who *feels* for the poor and dispossessed, Esther's *bildung* counts her affective responses as significant plot events that secure her reproductive labor to the broader work of race-improvement and populational stabilization. In the nineteenth century, as Schuller elaborates, the overly heightened impressibility of civilized white women became evidence that their sensorium was a "biological and political imperative" used for their "sexual and social self-determination."<sup>63</sup> Turned into a biological and political imperative, a white woman's feelings could guarantee the prosperity of nations and the longevity of civilization. In *Felix Holt*, Esther stands out as the malleable body capable of transforming her baser instincts into principled intentions, self-fashioned hereditary traits she will carry into the future with Felix Holt through their offspring.

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<sup>62</sup> For example, Carolyn Betensky's reading of *Felix Holt* argues that Esther's sympathetic feelings help to "redefine class all the more as a matter of character, as a state of heart and mind, as opposed to a state of economic power." See "*Felix Holt* and the Radicalization of Feeling" in *Feeling for the Poor: Bourgeois Compassion, Social Action, and the Victorian Novel* (Charlottesville and London: University of Virginia Press, 2010), 161.

<sup>63</sup> Schuller, 102.

One of the first things we learn about Esther Lyon, even before her official entrance into the plot, is her sensitivity to the smell of cheap tallow candles. In this scene, Felix and Esther's father, the minister of Treby Magna, Rufus Lyon, meet for the first time and the latter worries that Felix will perceive the expensive wax candle on the table as the minister's own "extravagance." In his daughter's absence, Rufus explains that "[t]his undue luxury is paid for by the earnings of my daughter, who is so delicately framed that the smell of tallow is loathsome to her."<sup>64</sup> Felix, replying that he "is not a mouse to have a nose that takes note of wax or tallow," reassures Rufus of their mutual understanding over the importance of "the quality of the page...not the candle."<sup>65</sup> Emphasizing sense over scent, this scene introduces the sex difference of Eliot's biopolitical affective worldview, where bodily sensation is organized along a gender binary in which the female body's impressibility and her perceived closeness to nature ("delicately framed" and likened to a mouse) secures the disembodiment of the rational male body. In their exchange, Esther's heightened sensitivity makes possible the common bond Felix and Rufus enjoy over their cerebral stimulation.

In these early scenes, Esther is a "fine lady" possessing "naïve tendencies towards luxury."<sup>66</sup> The problem, for both Eliot and Felix, is not so much that Esther's sensibilities are over-stimulated, it is that they are misguided, caught up in "small airs and small notions."<sup>67</sup> Rather than using her sensibilities for self-improvement, Esther limits her sensory impressions to surface details: "alive to the finest shades of manners, to the nicest distinctions of tone and accent; [Esther] had a little code of her own about scents and colours, textures, and behavior, by

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<sup>64</sup> Eliot, 60.

<sup>65</sup> Eliot, 60.

<sup>66</sup> Eliot, 71, 76.

<sup>67</sup> Eliot, 71.

which she secretly condemned all things and persons.”<sup>68</sup> Eliot’s solution involves not so much eradicating Esther’s sensitivity to the circulation of influences of the environment but redirecting it for the purpose of her social and sexual determination. As Felix patronizingly puts it to Esther, “I ought to say you are perfect. Another man would, perhaps. But I say, I want you to change.”<sup>69</sup> The stakes of Esther’s unreflective habits of perception are clear when Felix, in a move that generalizes Esther’s sensory impulses to the plight of all women, snarls, “That’s why I’ll never love, if I can help it; and if I love, I’ll bear it, and never marry.”<sup>70</sup> Without the *sensorial discipline* Schuller describes at the heart of the Lamarkian model of biological improvement<sup>71</sup>, Esther’s “idle fancy and self-inclination” hinders civilizational advancement, the colonial project of improving the hereditary qualities of the individual and, over time, the population.<sup>72</sup>

Over the course of the novel, then, Esther “battles with...her own impulses,” feeling the pull of “an inward strain, a demand on her to see things in a light that was not easy or soothing” until she is “stung into a new consciousness.”<sup>73</sup> After pages of untangling the line of descent for the Transome estate, it is revealed that Esther is the rightful heir to the property. The episode triggers the full realization of her inner transformation:

[s]he found herself arrested and painfully grasped by the means through which the ladyhood was to be obtained. To her inexperience this strange story of an alienated inheritance, of such a last representative of pure-blooded lineage as old Thomas

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<sup>68</sup> Eliot, 70.

<sup>69</sup> Eliot, 123.

<sup>70</sup> Eliot, 126.

<sup>71</sup> Schuller, 18.

<sup>72</sup> Eliot, 123.

<sup>73</sup> Eliot, 260, 226.

Transome the bill-sticker, above all the dispossession hanging over those who actually held, and had expected to always hold, the wealth and position which were suddenly announced to be rightfully hers—all these things made a picture, not for her own tastes and fancies to float in which Elysian indulgence, but in which she was compelled to gaze on the degrading hard experience of other human beings, and on a humiliating loss which was the obverse of her own proud gain.<sup>74</sup>

Esther's response to her change in fortune, "arrested" and "painfully grasped," names the sensory impressions that will transform into self-control and measured reflection. Moved into a state of moral virtuosity, Esther ponders "the means through which the ladyhood was to be obtained," the 'means' being the disinheritance of the Transome family from property she now holds claim. While Esther has the Transomes in mind, this reverie spurs her thoughts toward wider society as well: inheritances such as the one in her possession result in "dispossession", "humiliating loss", and "the degrading hard experience of other human beings." In this passage, guided by moral feeling, Esther arrives at a sympathetic state of reflection, marking a critical moment in her *bildung* process. The "proud gain" of her fortune, Esther's new powers of sympathetic insight help her realize, correlates with a loss of status and entitlements for others. Inheritance, Esther and the imagined reader of this passage learn, is an opportunity to choose moral advancement over self-aggrandizement. Here, Eliot's use of sympathy as a catalyst for Esther's inner development illustrates Glen Handler's and Elizabeth Barnes's analysis that sentimentalism functions as "an act of imagining oneself in another's position" that ultimately works to constitute the self.<sup>75</sup> As a Lamarckian model, Esther's *bildung* teaches habits of feelings

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<sup>74</sup> Eliot, 361.

<sup>75</sup> Quoted in Schuller, 56.

and thinking which, transmitted as morphology and instinct down the generations, will become hereditary.

Will Esther accept her claim to inheritance or will she, as Felix puts it, “choos[e] hardship as the better lot”?<sup>76</sup> This question hangs over Esther’s extended visit to Transome Court, where Harold courts her, and thus represents the ultimate test of her “inward revolution.” To accept Harold’s marriage proposal would mean to succumb to a self-serving life of “fine-ladyism,” “to walk along a path which is indeed easy to the flesh, but dangerous to the spirit”; in short, the undoing of Esther’s *bildung*.<sup>77</sup> More importantly, as I am trying to show, a marriage with Harold signifies the risk of degeneracy, Esther’s reproductive capacity breaking lockstep with the progressive development of civilization. As we’ve seen above, Harold’s character is conspicuously racialized, having returned from the East with darker skin, an appetite for spicy food, and a son, Harry, whose skin color and native tongue announce his mixed-race identity. When Harold confesses that “Harry’s mother had been a slave—was bought in fact,” the significance of that revelation to Esther is not lost on the reader, as pages before have highlighted Harold’s unsuitability.<sup>78</sup> We are told that Esther was “silent...and shaken with feelings she had not yet defined for herself,” but the narrator does give insight into her trail of thought: “Hitherto Esther’s acquaintance with Oriental love was derived chiefly from Byronic poems, and this had not sufficed to adjust her mind to a new story, where the Giaour concerned was giving her his arm.”<sup>79</sup> The negative analogy between Harold’s confession and the Giaour’s courtship—

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<sup>76</sup> Eliot, 263.

<sup>77</sup> Eliot, 71, 362.

<sup>78</sup> Eliot, 421.

<sup>79</sup> Eliot, 421.

“Oriental love”—is important because it reveals the novel’s attempt to excavate racialized matter from the biological processes of the civilized.

In this scene, Eliot takes a page from Orientalist discourse to speculate on the degenerative outcomes of a union between Esther and Harold. The allusion to Byron’s 1813 poem “The Giaour” is purposefully suggestive as in the novel’s earlier references to Byron’s poetry.<sup>80</sup> As the first in the series of Byron’s “Turkish Tales”, the poem is steeped in geographical, religious, racial, and sexual platitudes of the Orient. To activate the poem intertextually, Eliot sets the scene: Harold “draw[s] [Esther] down the *eastern* steps into the pleasure-ground,” where Esther soon imagines herself as the Giaour’s lover, Leila, a member of a harem and killed by her master Hassan, who, in a jealous rage, drowns her at sea.<sup>81</sup> In the Western feminist imagination, the polygamy of the harem unquestioningly indicates sexual slavery and domestic confinement, allowing Eliot to draw ruinous parallels between Leila the harem captive, Harry’s enslaved and nameless mother, and Esther. Leila and Harry’s mother have neither voice nor agency in poem or novel, respectively; similarly, the moment Esther confronts the possibility of a sexual union with Harold, the narrator reports that “[Esther] was unable to speak,” and, a few lines later, “Esther was still silent.” The implication is clear:

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<sup>80</sup> When Felix spots a volume of Byron’s poetry in Esther’s work basket, he retorts “in a tone of disgust,” “What! do you stuff your memory with Byron, Miss Lyon?” (69). Not only do these references to Byron help establish Felix and Harold as foils to each other, but they also align Esther with the Orientalized world of Byron’s tales. Indulging in the reading of these poems is offense enough; but to live it, as Harold’s proposal suggests, is beyond forgivable. Unlike Maggie Tulliver in *The Mill on the Floss* who reads to connect and exchange with others in the world, Esther’s reading practices uphold the divisions between East and West.

<sup>81</sup> Emphasis added, Eliot, 420. This type of orientalized analogy is quite common. In *Jane Eyre*, to take one example, Jane finds out about Bertha and then imagines herself as an enslaved prostitute under Rochester’s tyranny. See Charlotte Brontë, *Jane Eyre* (Oxford: Oxford University Press, 2019 [1847]), 261.

marrying Harold would mean relinquishing agency, agreeing to a union that may lead to an early death, as the fate of Leila and Harry's mother portend. Woven through Eliot's three-pronged analogy is an almost uniform association between "Oriental love", degeneration, and death. In fact, the fatalism of Oriental love is prefigured in an earlier moment when the narrator describes the unsavory distinctions Harold makes between Western and Eastern women:

Western women were not to his [Harold's] taste; they showed a transition from the feebly animal to the thinking being, which was simply troublesome. Harold preferred a slow-witted large-eyed woman, silent and affectionate, with a load of black hair weighing much more heavily than her brains. He had seen no such woman in England, except one which he had brought with him from the East.<sup>82</sup>

On one level, Eliot refigures the East/West binary to cast down Harold's views about the subjugation of women, to make a show of his depravity. On a deeper level, though, this rough distinction between East/West is the epistemological ordering of Eliot's biopolitical worldview after all. By the same logic that Western women are "thinking being[s]" and Eastern women are not, Esther's self-development relies on maintaining distinctions between the affectable, civilized body and the benumbed, primitive body.

Loss of agency, risk of degeneracy, and premature death: the lack of vitality in "Oriental love" threatens the deformation of Esther's emotional, moral, and biological transformation; on a greater scale, "Oriental love" threatens rather than optimizes the evolutionary development of the nation. It is telling that the scene of Harold's confession is carefully bookended by the spectral

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<sup>82</sup> Eliot, 344.

presence of children, on one end little Harry and on the other, Job Tudge, the orphan boy. When Harold leads Esther into the eastern pleasure-garden, we learn that “Harold’s previous married life had entered strongly into her [Esther’s] impressions about him. The presence of Harry made it inevitable.”<sup>83</sup> In the moments before Harold’s confession, the presence of his child on Esther’s mind becomes the lens through which she weighs Harold’s offer. Marrying Harold means adopting his son as her own, an alternative form of kinship that, comparable to a blood relation, may have racializing effects on Esther and her future shared offspring with Harold. As Esther considers Harry, the racialization of a union with Harold emerges. Within her grasp is a model of familial kinship that interrupts and diverges genealogical lines of white kinship.

In her book on race-making and kinship-making in nineteenth-century North America, Brigitte Fielder describes a theory of racial formation that explores the transmission of race outside of exclusively biological or heteronormative genealogies, “wherein race flows from biological parents to children.”<sup>84</sup> Race, according to Fielder’s argument, is also produced and reproduced “in relation, in the connections between bodies, in domestic spaces, through literary genre, and in practices of racialized reading and naming.”<sup>85</sup> The production of race happens in excess of the normative “downward” trajectories of racial inheritance from parent to offspring, bringing to light the differently directional genealogies of racial production: “through nonbiological relations of adoption, ‘horizontal’ relations of sexual kinship, and ‘backward’ genealogies of racial reflection from children to parents or ‘circular’ relations by which race is

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<sup>83</sup> Eliot, 421.

<sup>84</sup> Brigitte Fielder, *Relative Races: Genealogies of Interracial Kinship in Nineteenth-Century America* (Durham and London: Duke University Press, 2020), 2.

<sup>85</sup> Fielder, *Relative Races*, 4.

constructed and reconstructed *ad infinitum*.”<sup>86</sup> At the beginning of the courtship scene in *Felix Holt* when Esther thinks of Harry and then later when she, using her Byronic literary imagination, envisions herself as Harold’s orientalized lover, Eliot activates nonbiological formations of racial kinship. Here, race flows backward from Harry to Esther through adoption; race flows from Harold to Esther through sexual kinship; lastly, race flows through Eliot’s use of the ongoing history of Western reading practices on the Orient that captivate Esther’s imagination—a textual practice constructing and reconstructing race *ad infinitum*, in Fielder’s terms.

On the other end of the scene, breaking Esther’s silence, is the little orphan boy, Job, Felix Holt’s protégée. Readers will recall that Job’s entrance in the novel is narrated as a scene of sentimental disciplining that show the child to be in the process of regulating intelligently their engagement with the world. When, after crying over a minor finger injury, Job watches Esther cry and says to her, “Zoo soodn’t kuy,” the narrator adds that the boy was “being much impressed with a moral doctrine which had come to him after a sufficient transgression of it.”<sup>87</sup> Using his “mental exercises,” Job applies the lessons he learns through experience, controlling his emotions and using this discipline to interact with Esther. “[Job] is a hero, Miss Lyon,” Felix exclaims, “a bold Briton whose finger hurts him, but doesn’t mean to cry.”<sup>88</sup> Then a bit later, “Job is like me,” Felix says with pride.<sup>89</sup> The point is Job represents the white British child, who, although poor and orphaned, can nevertheless be “uplifted” through educational and domestic management, as the narrator’s description of his appearance expands on: “Job was a small fellow

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<sup>86</sup> Fielder, 4.

<sup>87</sup> Eliot, 224.

<sup>88</sup> Eliot, 222.

<sup>89</sup> Eliot, 224.

about five, with a germinal nose, large round blue eyes, and red hair that curled close to his head like the wool on the back of an infantine lamb.”<sup>90</sup> The word “germinal,” according to the *OED*’s etymology, is formed from Latin *germin* as in *germ*, a seed or ‘the action of sprouting’. The dictionary definition of ‘germinal’ is “vital in respect of life”; phonetically, it reminds us of ‘German’, of Anglo-Norman origins, derived from classical Latin *germanus* meaning real, genuine. Job’s “germinal nose” carries a eugenicist logic; meanwhile, the comparison of “infantine lamb” contrasts sharply with Harry’s animalistic comparisons on a civilizational scale. The point is that this initial scene prepares us for Eliot’s later contrasts between Harry and Job.

#### Inherited Citizenship: Frederic Harrison’s Martial Law Letters

In the immediate aftermath of the Morant Bay Rebellion of 1865, English political journalists and legal authorities alike debated in the press the legal nuances of Governor Eyre’s use of martial law to suppress the uprising. Over the course of the following year, technical legal writing on the Jamaica Controversy proliferated and became a significant topic of public debate. According to historian R.W. Kostal, of the many perspectives and arguments circulating throughout the field of public discussion, two general sides emerged: in the militarized violence inflicted on suspected rebels and rebel prisoners in the uprising, “Governor Eyre and military officers had overstepped their legal authority and were liable to a number of serious criminal and civil charges”; defenders of Governor Eyre, however, depended on the assumption that the Governor and his officers acted on a genuine and informed belief that the colony faced insurrection and thus “they were legally privileged in having taken any measure thought

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<sup>90</sup> Eliot, 222.

necessary to the restoration of order, including corporal punishment or execution of prisoner.”<sup>91</sup>

A key contributor of this public debate was Frederic Harrison’s *Six Letters to the “Daily News”* (1866). As a member of the Jamaica Committee, formed to oppose the Eyre Defense Committee and demand the governor be tried by Parliament or jury, Harrison vehemently argued in the letters that Eyre’s use of martial law went against English civil law and that he did not have legal authority to suspend civil law in Jamaica.

A legal theorist and social activist, Harrison was one of England’s “radical” barristers. During the 1860s, Harrison took progressive stances on many political causes such as Polish independence, the union’s position in the American Civil War, and the Fenian Uprising. He was also a longtime advocate of working-class trade unionism, working closely with union leaders and urging Parliament to secure legal protections and funds for their organized labor. When he was appointed to the Royal Commission in 1867 Harrison began a thorough investigation of union-organizing which culminated in several reports and two Parliamentary bills that “played a role of some importance in bringing [working men] into political life.”<sup>92</sup> By the end of the decade, Harrison’s polemical writings aroused the ire of liberals like Matthew Arnold who, in one newspaper article, satirically depicted the barrister as a dangerous radical in a London garden “in full evening costume, furbishing up a guillotine.”<sup>93</sup> In his youth Harrison had closely

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<sup>91</sup> Kostal, *A Jurisprudence of Power*, 228.

<sup>92</sup> Martha S. Vogeler, *Frederic Harrison: The Vocations of a Positivist* (Oxford: Clarendon Press, 1985), 70. See esp. chapter three ‘Alliances with the Working Class,’ 52-93. The bills that Harrison helped draft for the House of Commons during his time with the Royal Commission did not pass, but his efforts garnered a lot of attention and helped to develop and legitimize the English trade union movement. It wasn’t until 1875-1876 that labor unions obtained the legislation they had wanted for years: “strikes were made legal and union were permitted to register under the Friendly Societies Act without sacrificing their exemption from legal liability” (126).

<sup>93</sup> Matthew Arnold, “Letters to the *Pall Mall Gazette*,” (April 22, 1867), 3.

studied Auguste Comte's writings on Positivism, a system of thought that, ruling out religious and metaphysical aspects of human relations within social arrangements, formed the basis of Harrison's social, legal, and intellectual endeavors. As a positivist, he believed that science and law held the answers to society's most pressing issues.

For Harrison, the secularism of positivist thought directed his intellectual and political efforts towards 'the good of mankind' and for the sake of social progress, often leading him to defend minority views, as his collaborations with working-class unions demonstrate.<sup>94</sup> Just as Harrison criticized the government for the socio-economic discontent of the English working classes, he also denounced the injustices of Britain's laws and policies in the colonies. When news of the Morant Bay rebellion reached England, Harrison wasted no time in putting pen to paper against Parliament's justification of Governor Eyre's martial order. Less than two months after the insurrection, Harrison thundered at readers of the *Bee-hive*: "I trust that the working men throughout the country will find means to make their voice heard upon the massacres in Jamaica."<sup>95</sup> Harrison was just getting started.

The following year, three months after the publication of *Felix Holt*, Harrison wrote an open letter in the *Daily News* on the subject of martial law and the Eyre controversy for six consecutive weeks beginning on 23 November 1866. In these six letters, Harrison sought to persuade readers that Eyre's use of martial law posed a threat to the integrity of Britain's constitutional foundations. He criticized Parliament for backing Eyre's case, arguing that his contention was not about "punish[ing]...one intemperate ruler", but that Eyre's parliamentary support raised the "vital question of national liberty and policy," creating a "battleground of

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<sup>94</sup> Vogeler, 35.

<sup>95</sup> Harrison, 'Governor Eyre to be Tried at Home,' *Bee-hive* (December 9, 1865), 4.

public rights.”<sup>96</sup> As Kostal explains, the letters were “composed as stern warnings: Englishmen could ignore the gross injustices done to Jamaicans only at great peril to their own civil rights.”<sup>97</sup> In Kostal’s reading, the letters demonstrate how Harrison argues against the injustices of colonial rule in order to protect the legitimization of civil liberties in the metropole. The anxiety at the heart of these letters is that Eyre’s abuse of martial law, Harrison knew, exposed the sham of liberal equality in both colonial and metropolitan contexts.

Harrison’s indictment of the English government overlaps with other progressive stances he maintained throughout his legal career. At the same time, his full support of ancient legal traditions in the letters dominates his effort to clear public misconceptions about the function of English law. Drawing on a long history of legal precedent dating back to the Magna Carta and the Petition of Right, Harrison’s understanding of English law is sustained by traditional concepts of genealogy, English common birthright, and lineage that he uses to stabilize the legitimacy of English rule in Jamaica in the aftermath of the Eyre controversy. In what follows, I investigate his use of genealogy and birthright in his effort to include Jamaicans in “the great family of citizens of the British Empire.”<sup>98</sup> What emerges, I argue, is a deep tension between Harrison’s rhetorical attempt to extend the category of ‘citizen’ to nonwhite subjects of the empire and his dependence on ancient legal traditions rooted in histories of racial exclusion, as I will show. My point here is to show how race is central to Britain’s genealogical constructions of citizenship. Below, I focus on letters one and three.

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<sup>96</sup> Harrison, *Six Letters to “The Daily News”* in the *Jamaica Papers*, no. 5 (Fleet Street, London: the Jamaica Committee, 1867), 9.

<sup>97</sup> Kostal, *A Jurisprudence of Power*, 247.

<sup>98</sup> Harrison, *Six Letters to “The Daily News,”* 3.

In letter one, Frederic Harrison sketches the contentions surrounding Governor Eyre's use of martial law in the Morant Bay Rebellion and, specifically, the court-martial issued in the case of George William Gordon's execution. Writing against recent publications defending Eyre's actions under a 'new' doctrine of martial law (such as Finalson's monograph *A Treatise on Martial Law as Allowed by the Law of England in Time of Rebellion*, 1866), Harrison expresses dismay over the British government's justification of Eyre's proclamation of martial law in Jamaica given the "long train of solemn decisions of Parliament and courts of law" that would declare Eyre's actions illegal.<sup>99</sup> Harrison faults the House of Commons for justifying Eyre's actions, an "illiberal administration" "controlled by the upper and upper-middle class" and where "the people are again practically unrepresented."<sup>100</sup> As a result, Harrison's thesis goes, it is time that the people demand a prosecution of Eyre's illegal use of the law in order to protect and uphold England's "great public principles and rights":

In the name of the people, of the great family of citizens of the British empire, it again becomes vital to crush the pretensions of the executive abroad; it again becomes necessary to vindicate beyond the seas the first principles of civil liberty.<sup>101</sup>

Harrison's appeal to the citizenship of "the people" is one of two major themes in his letters. Invoking citizenship status allows him to make demands on the British public, reminding them of the responsibilities their citizenship entails. When the ancient traditions of British law are "openly derided by men in influence and power", then it is time to "make needful great changes

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<sup>99</sup> Harrison, 3.

<sup>100</sup> Harrison, 3.

<sup>101</sup> Harrison, 3.

somewhere in the State.”<sup>102</sup> At first blush, Harrison seems to write from a position of revolutionary intentions, castigating the House of Commons for being an accomplice to “arbitrary power”; but Harrison was not a radical. The phrase “the great family of citizens of the British empire” introduces a metaphor of familial kinship that foregrounds tradition, lineage, and genealogy, the second major theme of Harrison’s letters. According to Harrison’s argument, adherence to the long line of Britain’s legal ancestors is crucial to protecting and vindicating Britain’s constitutional principles. “From the time of the Revolution, down to the present generation there is a long current of authority which defines the powers of governors of our provinces, the functions of court-martial, and the conditions of the exercise of military force.”<sup>103</sup> It is important that the nation continues to appeal to this “long current of authority.”<sup>104</sup>

Harrison urges the British public to demand change from the state in order to preserve their nation’s ancient constitutional principles. At the center of this tension is the treatment of citizenship status for those that were killed under Eyre’s court-martial orders. As Harrison puts it, “there is yet a great question at stake between the Executive and the subject; subjects, it may be, beyond seas, and of another race, but fellow-citizens with us in the British realm. If they are not thus, what are they? If they have not this law, what law have they?”<sup>105</sup> While Harrison wishes to preserve the legal heritage of his country, he also tries to use this heritage to bring justice to a racialized population that this heritage has heretofore excluded and has not recognized as “citizens”. So there is this tension between the “great family of citizens of the British empire” and the “fellow-citizens...of another race”. Even the syntax of Harrison’s

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<sup>102</sup> Harrison, 3.

<sup>103</sup> Harrison, 5.

<sup>104</sup> Harrison, 5.

<sup>105</sup> Harrison, 6.

sentence registers the tension: here Harrison cannot help but acknowledge the geographical separation and racial difference of these “subjects”; nevertheless, they are “fellow-citizens with us in the British realm.” They are “subjects” first and “fellow-citizens” second.

“If they have not this law, what law have they?” The strategy of this rhetorical question is to unsettle the British public’s passive acceptance of the unequal function of law in England and Jamaica. As Harrison explains in letter three, even though it is well understood that civil law in England cannot be suspended, “a vague impression remains that some such power exists in the colonies; and it has undoubtedly been exerted.”<sup>106</sup> In order for English law to be in alignment with the nation’s constitutional principles, the rule of law must be transferable in the colonies, too: “I will try to justify the rule that *the Crown has no power and can delegate no power, to supersede civil law, either in Great Britain or in the colonies*, and that Jamaica proves no exception to the rule.”<sup>107</sup> To justify this axiom, Harrison falls back on rights of British citizenship to allegorize the portability of English law in the colonies. In the colonies, Harrison argues, “the citizen takes, as his inherent birthright, the grand customs and rights of his home, and renews, so far as can be renewed, the civil and social life of his island.”<sup>108</sup> By referring to the citizen’s “inherent birthright” Harrison alludes to Charles II’s colonial decree notable for its legitimatization of English civil liberties in the colonies. In his own words, Harrison prefaces the meaning of the decree before citing it later in the same letter.<sup>109</sup> The English common birthright is

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<sup>106</sup> Harrison, 15.

<sup>107</sup> Harrison, 15.

<sup>108</sup> Harrison, 15.

<sup>109</sup> Harrison cites Charles II’s colonial decree: “Publish and declare that all children of any of our natural-born subjects of England to be born in Jamaica shall, from their respective births, be

a fundamental rule of English law—I would almost say of our civil society—that when subjects of England settle beyond seas, they carry with them the essential features of the law they live under, and they no more abandon the English law than they put off their natural allegiances. They remain subjects of the Crown; they retain their customs and rights [...] I hold it to be beyond dispute, that wherever there exists an English settlement large enough to mirror and imitate the system of our country, there the citizen takes, as his inherent birthright, the grand customs and rights of his home, and renews, so far as can be renewed, the civil and social life of this island.<sup>110</sup>

Harrison’s point is to demonstrate the transferability of English legal privileges to Jamaican soil. The colonial decree, issued in 1661 to encourage the settlement of Jamaica, guaranteed that an exclusive birthright accompanied English colonists across the Atlantic and would be transmitted to their future descendants born in Jamaica. In *A Dark Inheritance: Blood, Race, and Sex* (2018), Brooke Newman studies the history of the legal, political, and cultural effects of Charles II’s decree in colonial Jamaica, showing how the English exclusive birthright “overlapped with and facilitated the codification of both slavery statutes and racial classifications designed to preserve the natural-born subject’s constitutional inheritance in law.”<sup>111</sup> Drawing on an underexamined archive of unpublished documents from the late eighteenth and nineteenth centuries, Newman excavates a discourse of English birthright and legal inheritance that racialized notions of “birthright, blood, and national belonging” by allocating to colonial subjects the “full rights and privileges afforded to British subjects” based on their hereditary blood status.<sup>112</sup> Harrison, by

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reputed to be, and shall be, free denizens of England, and shall have the same privileges, to all intents and purposes, as our free-born subjects of England.” See Harrison, 16.

<sup>110</sup> Harrison, 15.

<sup>111</sup> Newman, *A Dark Inheritance*, 5.

<sup>112</sup> Newman, 6.

referring to the English citizen's "inherent birthright," evokes a long and racist history of a notion of inherited birthright used for violent and exclusionary aims in Jamaica.

At first blush, the notion of inherited blood *seems* far away from Harrison's concerns, but Newman's study of the foundations of English inherited rights reveals the central role of hereditary blood status in determining one's eligibility for the rights that Harrison argues are transferable to all Jamaican colonial subjects. Dating back to seventeenth-century Jamaica, the English hereditary birthright was used to separate the freeborn Englishmen and his heirs from the marginalized and enslaved populations they subjugated and exploited. By the late eighteenth and early nineteenth centuries, after years of forced sex relations between British settlers and Afro-descended enslaved people, this political tradition evolved into an "exclusive understanding of British racial and national identity rooted in the inherent rights, inner qualities, and physical characteristics that inhered in the blood of white Britons."<sup>113</sup> In the years leading up to and after the abolition of slavery in Jamaica, notions of inheritable blood and blood purity were essential to racial classifications and the distribution of constitutional rights for various classes of colonial subjects. While this historical context is elided in Harrison's letters, his dependence on Charles II's decree to support his argument about equally shared rights between Britons and Jamaicans reveals the racism at the core of his liberal politics.

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<sup>113</sup> Newman, 232.

## CHAPTER TWO

### Codifying Character: Securing Colonial Futures in Wilkie Collins' *The Moonstone*

*The Moonstone* (1868), Wilkie Collins' sensational hit about a jewel theft, tracks the problem of white violence and white crime. An account of the intersecting worlds of England and India, the rise of modern surveillance structures, and the devolution of the English inheritance system, *The Moonstone*'s epistolary terrain is populated by servants, policemen, lawyers, scientists, colonial subjects, Orientalists, and lower-level aristocrats, all of whom are variously invested in a missing diamond, stolen from Indian territory during the Siege of Seringapatam in 1799. In the prologue, Collins depicts a scene of conquest where the English army commits "deplorable excesses," "terrible slaughter," and "load themselves with gold and jewels" from the Seringapatam royal palace. Amidst the chaos, English officials try to "prevent the plunder and confusion" that follow, failing to "enforce the laws of discipline and order on our own soldiers."<sup>1</sup> At the center of this breach in law and order is John Herncastle, an English officer whose "love of the marvellous" and "unlucky temper" induce him into a "kind of frenzy" during the moment of conquest, stealing the sacred diamond and bringing it with him to England.<sup>2</sup> Published during a time when it was commonly held that the British were bringing "civilization", "law and order" to a "savage" country, *The Moonstone*'s opening reads against the grain of Britain's civilizing mission.

The novel's exposure of white violence lying at the heart of colonization comes into focus against the background of the 1860s and 1870s when British colonial administrators

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<sup>1</sup> Wilkie Collins, *The Moonstone* [1868], ed. John Sutherland, (Oxford: Oxford University Press, 2008), 4. All in-text quotations from *The Moonstone* are taken from this edition.

<sup>2</sup> Collins, *The Moonstone*, 4-5.

pursued their most ambitious period of law-making in India. After the Indian Rebellion of 1857, when narratives of the criminal, ungrateful, and unruly Indian pulsed throughout the British empire, questions swirled about Britain's ability to maintain the rule of law in India. As British colonial administrators endeavored to order the seeming disorder of Indian native societies and mitigate anxieties about incorporating colonial subjects into a national landscape of citizens, the laws they developed placed Indian people and their bodies under the sign of deceit, untrustworthiness, and eccentricity. What ensued was a form of colonial governance that legitimized new standards of behaviors based on visual, racial, and behavioral schemes that determined who could and who couldn't claim privileges and legal protections, regulating a grammar of racial and cultural difference that shaped forms of surveillance and discipline in the colony and metropole. Certainly, the violent legal processes of colonization that sought to dominate racialized colonial populations are not limited to the second half of the nineteenth century. But what is significant about the codification projects of the 1860s and 1870s was that they inaugurated a legal system that institutionalized racial, cultural, and gender inequality through modern tactics of surveillance and policing in the name of addressing "the Indian Problem."<sup>3</sup>

Against the new forms of surveillance and policing tactics of the late nineteenth century, *The Moonstone* defies the moment's demonization of Indian society and reveals instead the coercion, violence, and exclusions at the root of Britain's colonial regime. As the novel portrays the modern policing power that hound the three Brahmin priests who travel to London to retrieve

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<sup>3</sup> By "Indian Problem" I mean the set of debates that emerged in the wake of the Indian Rebellion that portrayed the Indian through a framework of mendacity, sexual perversion, and savagery. See Lillian Nayder, "Collins and Empire" in *The Cambridge Companion to Wilkie Collins*, ed. Jenny Bourne Taylor (Cambridge: Cambridge University Press, 2006), 139-152.

their stolen diamond, Wilkie Collins' disrupts assumptions about Indian culpability by narrativizing the long line of white crime responsible for the stolen diamond and its disappearance. Nevertheless, the novel's treatment of racialized bodies under surveillance derived from the colonial state deserves significant pause. In this chapter, I argue that Collins uses the epistolary form to expose 'character' as the production of routine assumptions, performances, and codes that stem from colonial legal reforms shaping the native subject along fixed categories of race, gender, and sexuality. This chapter then looks to the career of India's most prolific codifier of the nineteenth century, James Fitzjames Stephen, to identify his legal interest in 'character' as a tool for securing a future rooted in colonization. By studying Stephen's authoritarian aims alongside the epistolary function of *The Moonstone*, we shed new light on how conceptions of 'character' are linked to specific practices of colonial rule.

### Denaturalizing Character and the Epistolary Form

To unpack the stakes of this chapter, consider more closely *The Moonstone's* prologue. Unlike the slew of metropolitan sensational novels of the 1860s, *The Moonstone* does not begin in England but in India, where the opening scene is recounted in a letter, an unnamed narrator addressing his family back in England. A troop in the British army, the narrator writes of the military attack on the city of Seringapatam, where his cousin, John Herncastle, is suspected of killing three natives guarding the diamond Herncastle has stolen and brought with him to England. "I saw John Herncastle, with a torch in one hand, and a dagger dripping with blood in the other," the narrator explains, admitting, though, "I cannot say that my own eyes saw the deed

committed.”<sup>4</sup> But the point of the letter isn’t to bring justice to the crimes Herncastle may have committed (“If I made the matter public, I have no evidence but moral evidence to bring forward”). More than a testimony against his cousin, the letter is an attempt to salvage the narrator’s own reputation, to save face amidst family scorn: “My object is to explain the motive which has induced me to refuse the right hand of friendship to my cousin.” Cutting ties with a blood-relative demands explanation since, he writes, this decision “has been misinterpreted by members of my family whose good opinion I cannot consent to forfeit.”<sup>5</sup> *Good opinion, consent, forfeit* are operative terms calling attention to the moral accounting under the law of liberal choice. He writes the letter, not to charge Herncastle for colonial crimes, but to absolve himself (the narrator) from the scrutiny of his family. “Let our relatives, on either side, form their own opinion on what I have written, and decide for themselves whether the aversion I now feel towards this man [Herncastle] is well or ill founded.”<sup>6</sup>

*The Moonstone*’s prologue introduces the background context for the narrative that follows, a story about an Indian diamond that Herncastle steals and passes down to his niece, Rachel Verinder, which mysteriously disappears on the night of her eighteenth birthday in Yorkshire county. Over the course of the story, readers encounter thirteen discreet reports, written by eleven different character-narrators and various minor narrators. Thus, the prologue’s opening letter introduces the epistolary form of *The Moonstone*. As narrative frame, the prologue is an exercise in readerly distance, turning sympathetic identification with either the unnamed narrator or the family receiving the letter into a critical observation of the letter’s design itself. Just like the addressees of the letter, the reader is also called upon to make a judgment, to form

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<sup>4</sup> Collins, *The Moonstone*, 6.

<sup>5</sup> Collins, *The Moonstone*, 1.

<sup>6</sup> Collins, *The Moonstone*, 6.

their own “opinion” of the narrator’s “motive”. Part letter, colonial dispatch, family paper, and historical narrative, this document is not only a record of a family dispute folded into a history of British colonization. The letter dramatizes the making of ‘character’, a multivalent concept so common to nineteenth-century vernaculars of psychological identity, personality, and reputation.<sup>7</sup> Here, the unnamed narrator’s character lies between the act of writing the letter and the reading of the letter. By beginning *The Moonstone* with a letter that exploits readerly judgment, Collins points to the machinery of character, specifically the *English* character of the British empire.

The form of the letter has often been understood as a medium accessing the hidden psychology of the one writing the letter, a document promising truth and transparency.<sup>8</sup> “I declare, on my word of honour, that what I am now about to write is, strictly and literally, the truth,” *The Moonstone*’s first narrator assures their readers.<sup>9</sup> As a form of expression, letters may reveal the “general character of the mind”: opinions, convictions, desires, impulses are phenomena that exhibit character.<sup>10</sup> John Herncastle, who has a “fiery temper,” turns into “a madman” on the battlefield, while the unnamed narrator, we are told, “tr[ie]d to establish order.”<sup>11</sup> As an exhibition of character, the letter depicts Herncastle as uncivilized and blood-thirsty, a thief and potential murderer. Thus, the letter makes a contrast between Herncastle, the soldier ‘gone native’, and the narrator who exhibits civility and a calm demeanor implied by the

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<sup>7</sup> Jonathan Farina, *Everyday Words and the Character of Prose in Nineteenth-Century Britain* (Cambridge: Cambridge University Press, 2017), xi.

<sup>8</sup> Eve Tavor Bannet, *The Letters in the Story: Narrative-Epistolary Fiction from Aphra Behn to the Victorians* (Cambridge: Cambridge University Press, 2017).

<sup>9</sup> Collins, *The Moonstone*, 1.

<sup>10</sup> Janice Carlisle, *John Stuart Mill and the Writing of Character* (Athens & London: University of Georgia Press, 1991), 5.

<sup>11</sup> Collins, *The Moonstone*, 4.

act of writing. But Collins moves beyond meanings that equate *character* with psychological depth and personhood. Character, the prologue's letter instructs us, is performance. Letter-writing, the means of addressing those who can make a judgment on you, invites performance, the presentation of an ideal self. By constantly pointing to the creation of character through performance, Collins' mission in *The Moonstone* is to denaturalize the English character. Wilkie Collins admits as much in the preface to the first edition of *The Moonstone*: "In some of my former novels, the object proposed has been to trace the influence of circumstances upon character. In the present story I have reversed the process. The attempt made here is to trace the influence of character on circumstances."<sup>12</sup>

I will return to the importance of character performance, judgment, and letter-writing in *The Moonstone* later in this chapter. For now, the prologue's opening letter introduces a critique of the "English character" that is one of *The Moonstone*'s key achievements: here, violence and civility are not oppositional terms but two aspects that form the construction of English character. On the one hand, John Herncastle represents the brutalities of colonial conquest; on the other hand, the unnamed narrator, a soldier who also participates in conquest of Seringapatam, performs on the page to establish himself as otherwise: civil, orderly, reasonable, moral. In Gauri Viswanathan's seminal study *Masks of Conquest: Literary Study & British Rule in India*, she explains how the brutalities of colonialism are the constitutive elements of the seeming civility of the Englishman:

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<sup>12</sup> Collins, Preface to *The Moonstone*, 1.

[The English] identity is equally split along the lines of actual and ideal selves, and the Englishman actively participating in the cruder realities of conquest, commercial aggrandizement, and disciplinary management of natives blends into the rarefied, more exalted image of the Englishman as *producer* of the knowledge that empowers him to conquer, appropriate, and manage in the first place. The self-presentation of the Englishman to native Indians through the products of his mental labor removes him from the place of ongoing colonialist activity—of commercial operations, military expansion, and administration of territories—and deactualizes and diffuses his material reality in the process. In a parodic reworking of the Cartesian axiom, the Englishman’s true essence is defined by the thought he produces, overriding all other aspects of his identity—his personality, actions, and behavior. His material reality as subjugator and alien ruler is dissolved in his mental output; the blurring of the man and his work effectively removes him from history.<sup>13</sup>

Viswanathan is writing in the context of Britain’s nineteenth-century imperial mission of educating colonial subjects through the disciplinary formation of English literary studies, but I’m focusing on the idea of the Englishman as both conqueror and “producer of the knowledge that empowers him to conquer”. In the prologue, the narrator uses “his mental labor” to appeal to his family in the act of writing, “remov[ing] him[self] from the place of ongoing colonialist activity”. Through its epistolary form, *The Moonstone* connects the making of English character with the production of knowledge, a record of routine assumptions, facts, and codes about the

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<sup>13</sup> Gauri Viswanathan, *Masks of Conquest: Literary Study & British Rule in India* (New York: Columbia University Press, 2015 [1989]), 20.

relations between race, gender, sexuality, and class during a time when imperial justifications and governing strategies of colonial rule underwent fundamental revision post-1857.<sup>14</sup> In this chapter, I show how the concept of ‘English character’—as an instrument of imperial violence and a vehicle for the diffusion of civil character—was shaped by British colonization, specifically during the 1860s-1870s when British administrators endeavored to codify the rule of law in India.

#### Reforming India’s Rule of Law: the Codification Movement, 1860s-1870s

The amalgamated logics of civilized and uncivilized, native difference, traditional gender roles, testimony, and colonial transgression structure Wilkie Collins’s denaturalization of ‘character’ in *The Moonstone*. But ‘individual behavior’ is an operative term too, and it is this term that is seminal to the legal reforms of the codification movement that were underway as Collins’ wrote *The Moonstone*. In fact Collin’s text shares nearly all if its categories with the political thought that animated the codification movement during the second half of the nineteenth century, spearheaded by legislators like James Fitzjames Stephen. Less than a decade after Collins was drafting his story of “the influence of character on circumstances,” James Fitzjames Stephen, having finished his tenure in India, reflected on the legal principles he solidified in the context of Indian legislation. By 1876 Stephen was confident that the “establishment of a system of law” in India “constitutes in itself a moral conquest...[I]t exercises an influence over the minds of the people in many ways comparable to that of a new religion.”<sup>15</sup> This is a quote from his essay “Legislation under Lord Mayo,” where he argued that law in India

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<sup>14</sup> Karuna Mantena, *Alibis of Empire: Henry Maine and the Ends of Liberal Imperialism* (Princeton and Oxford: Princeton University Press, 2010).

<sup>15</sup> Stephens, “Legislation under Lord Mayo,” in *A Life of the Earl of Mayo, Fourth Viceroy of India* by William Wilson Hunter (London, Smith, Elder, & Co., 1876), 286.

should function as a “compulsory gospel which admits of no dissent and of no disobedience.”<sup>16</sup> As legal historian Keally McBride has argued, Stephen’s legal principles were engineered with the goal of “surmise[ing] patterns of human behavior” in order to secure a colonial future in which “everyone would understand the benefits of behaving.”<sup>17</sup> In India, where cultural difference and plurality existed between the British who governed and the natives they governed, Stephen privileged law as the primary site of social control.

Stephen’s authoritarian view of law in India departs from earlier justifications of imperial rule characterized as a civilizing mission intended to prepare natives for self-rule one day.<sup>18</sup> During the codification movement of the 1860-1870s, in contrast, Stephen’s aim was to reform a system of law that, caring less about administering law for the purpose of educating natives into modern subjects, could effectively make their behavior predictable through control.<sup>19</sup> His vision of law was less about embracing liberal ideology and more about “the gritty realities of one people dominating another.”<sup>20</sup> As he explains in the plainest language in *Liberty, Fraternity, Equality*:

[L]aw must be based upon principles, and that it is impossible to lay down any principles of legislation at all unless you are prepared to say, I am right, and you are wrong, and

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<sup>16</sup> Stephens, “Legislation under Lord Mayo,” 284.

<sup>17</sup> Keally McBride, *Mr. Mothercountry: The Man Who Made the Rule of Law* (Oxford and New York: Oxford University Press, 2016), 105.

<sup>18</sup> The liberal ideals of the civilizing mission are notoriously characterized by John Stuart Mill. See Dipesh Chakrabarty *Provincializing Europe: Political Thought and Historical Difference* (Chicago: University of Chicago Press, 2000) and Uday Singh Mehta *Liberalism and Empire* (Chicago: University of Chicago Press, 1999) for prominent critiques of Mill’s historicism, which posited the “now” of civilizing mission against a “not yet” of customary despotism.

<sup>19</sup> McBride, *Mr. Mothercountry*, 104.

<sup>20</sup> McBride, 104.

your view shall give way to mine, quietly, gradually, and peaceably; but one of us two must rule and the other must obey, and I mean to rule.”<sup>21</sup>

In this section, I turn to some key moments in the codification movement in order to show a more nuanced portrayal of British rule in India. The codification movement reconfigured colonial hierarchies, impacting Indian and British social relations at the level of race, gender, and sexuality through the concept of ‘character’. The history of codification in India is an immense topic and it is not the purpose of this chapter to cover its entirety. Here, I am focusing more narrowly on Stephen’s ideas about codification because they illuminate an important stage in the evolution of Britain’s colonial mission. Studies of empire in nineteenth century political thought often privilege the liberal narrative of the civilizing mission as the paradigmatic form of nineteenth century imperialism, eclipsing the protean variability of imperial legal thought. Studying the history of codification, and the motivations that propelled it forward, allows us to understand British colonialism beyond canonical interpretations of it. To better understand this history, we begin with Thomas Macaulay and the original intentions of codification.

When Thomas Macaulay set sail for India in 1833, his plan was to create a legal infrastructure of “one great and entire work symmetrical in all its parts and pervaded by one spirit.”<sup>22</sup> Influenced by the legal work of Jeremy Bentham and the Utilitarians, Macaulay’s goal

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<sup>21</sup> Stephen, *Liberty, Equality, Fraternity and Three Brief Essays* with foreword by Richard A. Posner and notes by R. J. White (Chicago and London: University of Chicago Press, 1991 [1873]), 90.

<sup>22</sup> Quoted in Elizabeth Kolsky, *Colonial Justice in British India: White Violence and the Rule of Law* (Cambridge: Cambridge University Press, 2010), 70. Thomas Macaulay was the first Law Member of the India Council and the head of the first Law Commission in 1835. For more context on Macaulay’s tenure in India see Bernard S. Cohn, *Colonialism and its Forms of Knowledge: The British in India* (New Jersey: Princeton University Press, 1996) and Jyoti Puri, *Sexual States: Governance and the Struggle over the Antisodomy Law in India* (Durham and London: Duke University Press, 2016).

was to establish a uniform rule of law that would replace a patchwork of Company and pre-colonial laws arising from religious, caste, and geographical differences across India. To Macaulay and his supporters, India's varied landscape of diverse religions, cultures, jurisdictions had resulted in an uncertain legal system that needed reform. Their protocol, then, was to "establish order where we found confusion," to create a codification scheme summed up as "uniformity when you can have it; diversity when you must have it; but in all cases, certainty."<sup>23</sup> This scheme—backed by the authority of science, objectivity, and a definition of universality that was severely mediated by race, gender, and nation—sought to standardize a system of penal codes under the premise of ushering Indian society into civilized modernity.

The idea of "progress" was fundamental to the political philosophy that Benthamite legislators like Macaulay drew on to form their notions of the function of law and government in India. These Benthamite legislators believed that a uniform rule of law would create conditions to support the improvement of Indian society. Macaulay's contemporary and employee of the East India Company, John Stuart Mill, argued that good government "entailed an intensely reciprocal relationship between political institutions and a people's character."<sup>24</sup> Both Mill and Macaulay believed that the laws of a government not only reflected the character of a nation but were also responsible for shaping the character of individuals within that nation. Thus, the purpose of installing codified law in India was to help form the "right character" in native subjects required for their so-called improvement. As Mill put it in "Remarks on Bentham's Philosophy", the responsibility of government involved "carrying forward the members of a community towards perfection or preserving them from degeneracy."<sup>25</sup> This view formed the

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<sup>23</sup> Quoted in Kolsky, *Colonial Justice in British India*, 74, 70.

<sup>24</sup> Mantena, *Alibis of Empire*, 31.

<sup>25</sup> Quoted in Mantena, *Alibis of Empire*, 31.

core of the moral justifications of the British civilizing mission in India during the first half of the nineteenth century.

In an 1833-minute Macaulay proclaimed that the purpose of codifying the law in India was to “place the European under the same power which legislates for the Hindoo.”<sup>26</sup> In this speech, Macaulay used the rhetoric of the “white man’s burden” to argue that Britain’s duty in India was to end the rule of Oriental despots who wielded power by personal will rather than a system of uniform laws. Under the tutelage of the British Empire, then, a simple and uniform rule of law which placed colonizer and colonized on equal footing was England’s greatest gift to the people of India. Wilkie Collins was certainly familiar with this pro-colonialist framing of Indian history as a series of conflicts between Oriental tyrants until British intervention. In the prologue of *The Moonstone*, Collins’ unsettles Britain’s moral justification of its civilizing mission by portraying the moment of imperial intervention as a scene of violent excess, where British officials like John Herncastle break their own “laws of discipline” and are “unfit” to “perform the duty” of good government.<sup>27</sup> While the wider narrative of *The Moonstone* certainly validates British benevolence and utilizes Orientalist tropes to represent the three Brahmin priests, as many critics have shown, the prologue’s portrayal of British violence—rooted in a breach of their own “laws of discipline”—nuances the lived experiences of colonial rule.

The Indian Rebellion of 1857, which forced colonial officials to confront growing native disaffection and imperial failure, led to a fundamental reassessment of the colonial structures of

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<sup>26</sup> The rest of the speech: “India has suffered enough already from the distinctions of caste and from the deeply rooted prejudices which those distinctions have engendered. God forbid that we should inflict on her the curse of a new caste, that we should send her a new breed of Brahmins, authorized to treat all the native populations as Parias.” Quoted in Kolsky, p. 70.

<sup>27</sup> Collins, *The Moonstone*, 4.

law that an entire generation of Benthamite legislators had espoused. In this manner, the rebellion marked a turning point in Britain's approach to colonial rule. If British legislators in the first half of the nineteenth century sought to establish a uniform rule of law that would shape native societies along Western lines, the second half of the nineteenth century introduced a new generation of legal codifiers grappling with how to administer a rule of law that accommodated native difference.<sup>28</sup> The Indian Rebellion led to the most intense period of codification during the 1860s-1870s, a legal movement which placed new emphasis on the cultural and racial differences between British and Indian societies. During this time, as political theorist Karuna Mantena explains, "native society was given an altered and heightened ideological function, not strictly as a pathology to be overcome but as a structure to be accommodated and contained."<sup>29</sup> In other words, native society was targeted as something to better understand in order to control. The codification movement helped facilitate this control by policing the boundaries of race, gender, and sexuality.

In the next section, I give an overview of some key legal changes that occurred during the codification movement in order to show how the goal to codify law cemented hierarchies of race, gender, and sexuality between colonial Indian and metropolitan British societies. My point here is to show how these laws played a crucial role in the fashioning of both English and Indian "character", a concept that was central to the identity and power-making of the British Empire. Not only was 'character' important to the British Empire's identity, but it renewed justifications for colonial rule during the second half of the nineteenth century. The goal of codification was about systematizing conformity among Indian and British subjects. Stephen believed that the

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<sup>28</sup>Mantena, 2. Mantena refers to this transition as direct to indirect rule, a transformation from a "universalist to culturalist stance in imperial ideology."

<sup>29</sup> Mantena, 12.

codification project in India would benefit governance back home in England. His legal writings on India's codes of law were intended for an English metropolitan readership, preparing his audience for a draft of the criminal code for England he would develop in 1878.<sup>30</sup> The point is that codifiers like Stephen approached this reformist legal project with the goal of organizing and regulating the forms of perception of and knowing about India, its people, and the people in charge of governing India. I argue that *The Moonstone* inhabits the forms of perception and knowing that the codification project systematized, using the affordances of the epistolary genre to, on one level, determine and organize how characters conform and deviate from normative codes of behavior related to one's gender, sex, and race. On another level, the novel uses the epistolary genre to control and monitor how the story of the missing diamond is told—how colonial history, in other words, is narrated to an English metropolitan audience.

Codification: the Criminal Code of Procedure (1861), Indian Evidence Act (1872), and the Indian Oath Act (1873)

Regarding the history of the most intense period of codification in India during the 1860s-1870s, there is one key study that situates white lawlessness at the center of the British empire that would never be completely controlled. In her study *Colonial Justice in British India* (2010), historian Elizabeth Kolsky argues that codification was driven by the need for colonial authorities to harness the problem of violence among European communities. As she writes, "A codified rule of law was designed to provide the colonial state with a mechanism to discipline a

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<sup>30</sup> McBride, *Mr. Mothercountry*, 108. For an example of Stephen's writing on India intended for English consumption back home, see "Codification in India and England," *Fortnightly Review* (1872): 644-672.

growing population of white settlers, capitalists, and planters in India who were immune from local criminal jurisdiction and therefore outside the bounds of law.”<sup>31</sup> In addition to documenting the failure of law to control European misconduct, Kolsky also demonstrates how law constructed race in British India:

Having provided special privileges to European British subjects in the law, the state was required to establish the boundaries of race. That is, race was not already there. It had to be delineated, and the work of defining race was partly done by law. Whites in India were not only ill-behaved: they were also ill-defined, and a race-based legal system raised the pesky problem of determining who was entitled to the privileges of Britishness. In India, the legal question of who counted as a European British subject was contested and reworked over time, offering evidence of how law participated in the determination and institutionalization of racial difference.<sup>32</sup>

If the development of codified law during the first half of the nineteenth century was intended to “place the European under the same power which legislates for the Hindoo,” as Macaulay stated in 1833, then codification during the second half of the nineteenth century was marked by a reinvigorated insistence on the racial and cultural differences between natives and Europeans. As the result of Indian Rebellion of 1857, abstract fears about Indian race hatred had been intensified by real accounts of mass resistance to the colonial state, and the European community

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<sup>31</sup> Kolsky, *Colonial Justice in British India*, 23-24.

<sup>32</sup> Kolsky, 12.

was increasingly anxious about Indian vengeance, particularly the dangers of being subjected to Indian judges in court.<sup>33</sup> Using the Criminal Code of Procedure (1861) as a test case, Kolsky examines how these codes created race-based distinctions by according special legal entitlements and exemptions to European communities.<sup>34</sup>

Likewise, the Indian Evidence Act of 1872 and the Indian Oath Act of 1873, to take more examples Kolsky elaborates on, were reactions to the perceived problem of Indian mendacity and what was described as the “peculiarities” of Indian culture. Stephen, India’s most prolific codifier, wrote and passed these acts in order to incorporate the “special legislation” that India’s “peculiar circumstances” required.<sup>35</sup> The peculiar circumstances of India, according to Stephen and his supporters, demanded a codified law of evidence and testimony that would “assist the untrained officer in discriminating between fact and falsehood.”<sup>36</sup> Here, codification reveals itself as “a system of misrecognition of colonial subjects,” where “all Indians were suspect; even those who were trained as judges.”<sup>37</sup> As Stephen explained in one speech, codifying the laws of evidence and testimony were meant to “furnish the [Indian] Judge with solid tests of truth.”<sup>38</sup> What this means is that the boundaries that determined what was factual evidence and what was not, what was considered a valid testimony and what was not, were being redrawn under the premise of racial and cultural difference. In the passage I cited above from *The Moonstone*’s

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<sup>33</sup> Kolsky, 85.

<sup>34</sup> She argues, “Instead of establishing formal legal equality, the Code of Criminal Procedure institutionalized race inequality by delineating race-based rights and privileges, including: juries with European majorities for Europeans, but not for Indians; Presidency trials for Europeans, but local trials for Indians; and a racially differentiated schedule of punishments.” Kolsky, *Colonial Justice in British India*, 78.

<sup>35</sup> “Introduction to the Evidence Act,” *The Indian Evidence Act*, quoted in Kolsky, 119.

<sup>36</sup> Kolsky, 119.

<sup>37</sup> McBride, 119.

<sup>38</sup> Stephen’s speech of March 31, 1871, National Archives of India (NAI), *Gazette of India*, April 4, 1871. Quoted in Kolsky, 119.

prologue, Collins sets up the dynamics of distrust and testimony in the Indian context by aligning the “dying Indian’s words” with “the ravings of delirium.” In a novel that dissects the techniques of criminalization through epistolary forms of testimony and evidence, Collins’ portrayal of Indian mendacity raises questions about how legal forms of detection created new ways of perceiving cultural difference that shaped the process of criminalization. Rather than focus on any one specific code of law, this chapter considers the development of codification in the 1860s-1870s as a movement in British colonial rule that helped organize modern policing around categories of race, gender, and sexual difference.

Kolsky’s study demonstrates how codification provided the conditions for the institutionalization of racial difference in law, but gender and sexuality were also integral to the development of codification in nineteenth-century British India. In *Sexual States: Governance and the Struggle over the Antisodomy Law in India* (2016), Jyoti Puri examines a crucial aspect of Indian legal history that is frequently overlooked by historians and scholars of British colonialism: Section 377 of the Indian Penal Code, the antisodomy law prohibiting “carnal intercourse against the order of nature,” first drafted in 1862. While Puri’s book tracks the history of sodomy law up until present-day India, her assessment offers insight into the links between gender, sexuality, and law in the nineteenth century. With the enactment of the penal codes in 1862, specifically Section 377, British officials

introduced the criminalization of nonprocreative sexual practices in a way that did not have a precedent in precolonial India, and although the code does not overtly interpellate

any specific persons or what have come to be identified as sexual orientations, the consensus is that it inaugurated the homosexual into legal history.<sup>39</sup>

What Puri tracks is how Section 377 became part of the process of re-mapping and re-figuring the categories of gender and sexual difference in relation to a set of codes that criminalized nonprocreative sexual acts, as well as the appearance of those “likely to commit aberrant sexual acts.”<sup>40</sup> For my purposes in this chapter, I am less interested in how Section 377 identifies the homosexual and more focused on how the history of this statute shapes the policing of gender and sexuality in the context of the British Empire. In my reading of *The Moonstone*, I pay special attention to the way Collins’ inverts and deconstructs colonial binaries of race, gender, and sexuality by forging homosocial relations between disparate characters, like Franklin Blake, who has a fascination with Ezra Jennings’ “female constitution”; and Lucy Yolland, who has plans to run away with Rosanna Spearman and have “a little lodging in London, and liv[e] together like sisters.”<sup>41</sup> In particular, I read the homosocial bond between these two pairs of characters as dethroning heterosexuality as the primary form of desire that, by the end of the novel, is renounced in its proximity to crime (Rosanna, an ex-convict, kills herself before Lucy is able to execute their plan to move to London; Ezra’s opium experiment reveals Blake as the diamond thief) and subsumed by the sociosexual order of heterosexual marriage.<sup>42</sup> The novel’s

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<sup>39</sup> Puri, *Sexual States*, 57.

<sup>40</sup> Puri, 57-58.

<sup>41</sup> Collins, *The Moonstone*, 369, 184.

<sup>42</sup> In addition to Jyoti Puri’s work, I also consult Ed Cohen, *Talk on the Wilde Side: Toward a Genealogy of a Discourse on Male Sexualities* (New York: Routledge, 1992); Sharon Marcus, *Between Women: Friendship, Desire, and Marriage in Victorian England* (Princeton: Princeton University Press, 2007); Eve Sedgwick, *Between Men: English Literature and Male Homosocial Desire* (New York: Columbia University Press, 1985); and Mrinalini Sinha, *Colonial*

narrativization of policing and surveillance illuminates a colonialist framework that determines the appropriate and adequate management of sexuality in order to ensure hierarchies of race, gender, and sex. As I draw on the histories of gender and sexuality in colonial India to inform the metropolitan scene of *The Moonstone*, I rely on accounts of legal history by Jyoti Puri and David Skuy that situate the development of the Indian Penal Code in relation to the long process of English criminal reform that continued well into the 1860s. In Skuy's words, the "Indian Penal Code's substantive and procedural elements were derived from [...] the English legal community's response to the state of English criminal law in the first half of the nineteenth century."<sup>43</sup>

Thus, one of the main purposes of this chapter is to grapple with the difficulty of "bring[ing] metropole and colony into a single analytic field."<sup>44</sup> To study the history of codification in India is to engage the legal controversies that lawyers, intellectuals, and pamphleteers debated closer to home. As the question of importing English law to India was being debated in the metropole, the uncertain state of common law in England necessarily raised concerns about legal reform in India. Mantena, in *Alibis of Empire*, explains further: "In this context, the debate concerning legal reform and legal codification in India necessarily intersected with the concurrent debate about the present and future shape of English common law, and thus, proved to be an important conduit for experimenting with models of reform that could be

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*Masculinities: The 'manly Englishman' and the 'effeminate Bengali' in the Late Nineteenth Century* (Manchester: Manchester University Press, 2021).

<sup>43</sup> David Skuy, "Macaulay and the Indian Penal Code of 1862: The Myth of the Inherent Superiority and Modernity of the English Legal System Compared to India's Legal System in the Nineteenth Century," *Modern Asian Studies* 32, no. 3 (1998): 513-557, 526.

<sup>44</sup> Frederick Cooper and Ann L. Stoler, "Introduction Tensions of Empire: Colonial Control and Visions of Rule," *American Ethnologist* 16, no. 4 (1989): 609-621, p. 609.

reimported, as it were, to England.”<sup>45</sup> To understand the interlocking histories of codified law, I also turn to James Fitzjames Stephen’s legal career in London and India as a representative case of the legal apparatus between colony and metropole. Stephen, who prepared a draft of the English criminal code after being invited by Parliament to bring his legal experience in India to bear upon efforts to codify English law, observed, “The Indian Penal Code is to the English criminal law what a manufactured article ready for use is to the materials out of which it is made.”<sup>46</sup> This is a notable analogy for two reasons. On the one hand, it reverses the temporal logic of “first in Europe and then elsewhere” by elevating the full development of Indian law over the fragmented and underdevelopment of English law.<sup>47</sup> On the other hand, it confirms the mindset that understood the colonies as test-case laboratories for the legal procedures British administrators could not easily enforce back home. In its sensationalized tracking of the long line of white crime involved in the theft of the Indian diamond, *The Moonstone* directs our attention to how domestic white crime interacts with the codifying schemes of empire.

### James Fitzjames Stephen’s Colonial Character

In the final months of his tenure as Law Member of the Viceroy’s Council in India from 1869-72, James Fitzjames Stephen had his own brush with a case of colonial crime. Stephen’s close friend and colleague, the Governor-General of India, Richard Southwell Bourke, 6th Earl of Mayo, was assassinated during a trip to the convict settlement on the Adaman Islands in the

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<sup>45</sup> Mantena, *Alibis of Empire*, 91.

<sup>46</sup> G. O. Trevelyan, *The Life and Letters of Lord Macaulay* (London: Lowe and Brydone, 1959), 387.

<sup>47</sup> See Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference*, 8.

Bay of Bengal.<sup>48</sup> Lord Mayo, having contributed substantially to the drafting of a new code of regulations for the disciplinary reorganization of the settlement, was visiting the island as part of an inspection tour when, while returning to his ship in the harbor after a day's work, a convict stabbed him. The scene of the murder, detailed in Lord Mayo's biography, is described in Orientalist platitudes that mark the convict as non-human "Other". The assassin, Sher Ali Afridi, had been a soldier in the Punjab Mounted Police before receiving a life-long sentence on the island for killing his "blood-feud" enemy at Peshawar.<sup>49</sup> According to the account of the assassination, Sher Ali told officials that his motive was "*Khudá ne hukm diyá*,"<sup>50</sup>; when asked if he had any accomplices Sher Ali replied, "*Merá sharik koí áamí nahím; merá sharik khuaá hai*."<sup>51</sup> Sher Ali's insistence on the religious motivations behind his deed give insight into his later elaborations of the crime in the days leading up to his execution on March 11, 1872. He confessed that his motive was to take revenge against "some European of high rank" for his imprisonment for "slaying a hereditary foe in cold blood," which was "no crime in his eyes."<sup>52</sup> Raised in a culture of "blood-feuds," Sher Ali believed he had been wrongfully convicted because the colonial penal codes were incompatible with the customs of his native land.<sup>53</sup>

The assassination of Lord Mayo left a strong impression on Fitzjames Stephen, who had worked closely with the Governor-general on several legislative acts between 1869-1872.<sup>54</sup> In a

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<sup>48</sup> W.W. Hunter, *Rulers of India—The Earl of Lord Mayo* (Oxford: Clarendon Press, 1892), 355-367.

<sup>49</sup> Hunter, *Rulers of India*, 365.

<sup>50</sup> This is translated as "By the order of God." See Hunter, 364.

<sup>51</sup> "Among men I have no partner; God is my partner," 364.

<sup>52</sup> Hunter, 199.

<sup>53</sup> Satadru Sen, *Disciplining Punishment: Colonialism and Convict Society in the Andaman Islands* (Oxford: Oxford University Press, 2000), 67.

<sup>54</sup> Stephen writes of the "sorrow" felt over his friend's death "during a very trying time" in the dedication pages of *Liberty, Equality, Fraternity*, 24.

letter to his mother, Fitzjames Stephen gives an account of Lord Mayo's funeral that disturbingly seeps into the domain of hatred and imperial violence. Quoted extensively in his biography, the letter, his brother Leslie Stephen explains, "illustrates [...] more forcibly than anything else, the impression produced upon him by India generally":

Behind [the sailors] them walked the procession, which was nearly three-quarters of a mile long, and contained every Englishman of any importance in Calcutta and a considerable number of natives. The whole road was lined with troops on both sides: but they stood at intervals of several yards, and there was an immense crowd close behind and, in some places in between them...If there had been any other fanatics in the crowd, there was nothing to prevent them from making a rush and giving a stab...If there had been any attempt of the kind, I cannot say what might not have happened. People were in such an excited and half-electric state that there might have been a general riot, which would soon have become very like a massacre. One man told me that on his way home, he felt possessed by such a fury against anyone who might be connected with the murder, that he walked with a kind of charge through a group of people, who looked as if they enjoyed "the show," and gave a shove to a big Mohammedan who looked insolent, at which, he said, "the man went down like a bag of feathers." I saw some suspicious-looking fellows grinning and sneering and showing their teeth myself, and I felt as if I could have killed them. No one who has not felt it can imagine how we all feel out here in regard to such matters. When Lord Mayo was stabbed, I think every man in the country felt as if he had been more or less stabbed himself.<sup>55</sup>

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<sup>55</sup> Leslie Stephen, *Life of Sir James Fitzjames Stephen, Bt., K. C. S. I., a Judge of the High Court of Justice* (London: Smith, Elder, & Co., 1895), 292-293.

Written in the months before Stephen would set to work on *Liberty, Equality, Fraternity*, where he would argue the thesis that “law is nothing but regulated force,” this letter combines the artificial civility of colonial order with the cruder realities of conquest.<sup>56</sup> The letter, filled with prepositions throughout, begins with an obsessive-like attention to order. Fitzjames Stephen notes quantities of people (“contained every Englishman”; “a considerable number of natives”), approximate measurements (“nearly three quarters of a mile”; “intervals of several yards”), and spatial linearity (“the procession”; “a mile long”; “the whole road was lined”). This scene of order, however, is interrupted by an “immense crowd” protruding “in between” the procession, marking the turn from solemn stateliness to a heated anticipation of massacre. The ellipsis preceding the next sentence is Leslie Stephen’s own omission and the reader wonders what came before Stephen wrote, “If there had been any other fanatics in the crowd.” Repeating the phrases “If there” and “as if” a total of five times, this passage draws attention to the violence that colonial civility presupposes to its rule. Like Aimé Césaire’s concept of the ‘boomerang effect’, Stephen’s contempt for the natives recalls John Hearncastle’s “wild frenzy” state during the scene of British conquest in *The Moonstone*’s prologue.<sup>57</sup> Fitzjames Stephen’s letter depicts not a funeral but a funeral imagined on the brink of violence.

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<sup>56</sup> Stephen, *Liberty, Equality, Fraternity*, p. 200.

<sup>57</sup> As Césaire elaborates in “Discourse on Colonialism”: “[C]olonization, I repeat, dehumanizes even the most civilized man; that colonial activity, colonial enterprise, colonial conquest, which is based on contempt for the native and justified by that contempt, inevitably tends to change him who undertakes it; that the colonizer, who in order to ease his conscience gets into the habit of seeing the other man as *an animal*, accustoms himself to treating him like an animal, and tends objectively to transform *himself* into an animal. It is this result, this boomerang effect of colonization that I wanted to point out.” See Aimé Césaire, *Discourse on Colonialism* trans. Joan Pinkham (New York: Monthly Review Press, 2000 [1955]), 4.

In the legislative networks between India and England, Fitzjames Stephen's character was constructed along the lines of what Stefani Collini has called 'muscular liberalism'.<sup>58</sup> He was frequently described as "a man of enormous energy" who laboured "without rest" but not "without haste."<sup>59</sup> In the short tenure in India, he was uncommonly prolific, completing work enough for five law members, leaving "the Legislative Council breathless and staggering."<sup>60</sup> One law critic, Sir C. P. Ilbert, refers to Fitzjames Stephen as a "Cyclopean builder" who "hurled together huge blocks of rough-hewn law."<sup>61</sup> Less admiring critics of Fitzjames Stephen's work also reiterate his persona of masculine toughness and virility. In Frederic Harrison's famous critique of *Liberty, Equality, Fraternity*, he describes Fitzjames Stephen's legal doctrines as "obtrusive muscularity": "Every one can remember at school some big-boned boy, who was perpetually asking his less-gifted companions to feel his biceps, or to see him double up a poker. Mr. Stephen is too fond of showing off the sinewy character of his morality."<sup>62</sup> Fitzjames Stephen's brother, Leslie Stephen, admits that the "shortcomings of such an intellectual force" was a neglect of "needless subtlety"; his "most prominent intellectual characteristic" was "the intensity of his longing for broad, general, commonsense principles."<sup>63</sup>

I quote extensively on the ways Fitzjames Stephen's contemporaries publicly described him in order to sketch the character that spearheaded the project to standardize codes of law for India during the second half of the nineteenth century. Summed up, Stephen's leading principle

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<sup>58</sup> Stefan Collini, "The Idea of 'Character' in Victorian Political Thought," *Transactions of the Royal Historical Society* 35 (1985): 29-50, 45-6.

<sup>59</sup> Quoted in Leslie Stephen, *Life of Sir James Fitzjames Stephen*, 280.

<sup>60</sup> Stephen, 280.

<sup>61</sup> Stephen, 279-80.

<sup>62</sup> Frederic Harrison, "The Religion of Inhumanity," *The Fortnightly Review* 13, no. 73 (1873): 677-699, 678.

<sup>63</sup> Stephen, *Life of Sir James Fitzjames Stephen*, p. 280-81.

of government was force rather than consent.<sup>64</sup> Stephen's imperialist ideology was rooted in authoritarian force. To him, there was "a natural and radical inequality among persons; there had to be an elite to wield the lash, and hence a division between masters and slaves."<sup>65</sup> Much more on the far right of the political spectrum than his liberal contemporaries like John Stuart Mill and Frederic Harrison, Stephen's liberalism was committed to "high conservative themes of patriotism, religion, and empire."<sup>66</sup> To him "the state is that entity which claims a monopoly on the legitimate use of physical violence."<sup>67</sup>

One of the guiding principles of Stephen's approach to law has to do with his concern for human morality. In his preface to the second edition of *Liberty, Equality, Fraternity*, a rejoinder to his critics, especially Morley and Frederic Harrison, Stephen writes, that his liberal doctrine involves how "the character of our morality depends and must depend upon the conceptions which we may form as to the world in which we live."<sup>68</sup> To Stephen, it was the law that set the standard of morality to a nation's subjects: "the establishment of a system of law which regulates the most important part of the daily life of a people constitutes in itself a moral conquest, more striking, more durable, and far more solid than the physical conquest which renders it possible. It exercises an influence over the minds of the people in many ways comparable to that of a new religion."<sup>69</sup>

### The Production of History-Telling

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<sup>64</sup> Eric Stokes, *The English Utilitarians and India* (Oxford: Clarendon Press, 1959), 285.

<sup>65</sup> Richard Posner in the foreword to *Liberty, Equality, Fraternity and Three Brief Essays*, 15.

<sup>66</sup> Julia Stapleton, "James Fitzjames Stephen: Liberalism, Patriotism, and English Liberty," *Victorian Studies* 41, no. 2 (1998): 243-263, 259.

<sup>67</sup> Nathan K. Hensley, *Forms of Empire: The Poetics of Victorian Sovereignty* (Oxford: Oxford University Press, 2016), 169.

<sup>68</sup> Stephen, *Liberty, Equality, Fraternity*, 35.

<sup>69</sup> Quoted in Leslie Stephen, *Life of Sir James Fitzjames Stephen*, 286.

As a letter from the imperial front and preserved as a “family paper”, *The Moonstone*’s prologue brings an English family dispute face-to-face with the macrohistorical context of India’s colonization. At the same time the prologue introduces the epistolary mode of the novel, it also consciously stands as an account of history. Before the unnamed narrator can begin to tell the story of Herncastle’s deranged violence in India, he takes a detour: “I must revert for a moment to the period before the assault, and to the stories current in our camp of the treasure in jewels and gold stored up in the Palace of Seringapatam.”<sup>70</sup> To understand the present, one must look to the past, the letter instructs its readers. Spanning different eras, cultures, and geographical locations, the unnamed narrator gives an overview of the historic origins of the “yellow diamond”. According to the narrator, the diamond’s origins begin in the “holy city of Somnauth” during the “eleventh century of the Christian era,” a hint at the wider Western temporal framework the narrator situates its telling of Eastern histories.<sup>71</sup> What follows is an account of a series of imperial conflict between Hindu and Muslim nations. When Mohammedan conquerors seize the city of Somnauth, their plundering of the city compel three Brahmin priests to furtively remove the diamond from its sacred temple and transport it to the city of Benares, a temporary haven. “One age followed another,” we are told, until “the eighteenth Christian century” during the reign of Aurungzebe, Emperor of the Moguls, whose army seized the diamond from its temple. From there, the diamond “passed (carrying its curse with it) from one lawless Mohammedan hand to another” until it “fell into possession of Tippoo, Sultan of Seringapatam.”<sup>72</sup> Our narrator refers to this colonial lineage as a “fanciful story,” blurring the

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<sup>70</sup> Collins, *The Moonstone*, 1.

<sup>71</sup> Collins, 2.

<sup>72</sup> Collins, 3.

distinction between history and fictional story.<sup>73</sup> Here, the prologue purposefully converts Eastern histories into a chronological narrative charted along Western linear modernity. Collins begins the novel with a colonist interpretation of Indian history.

Scholars, having studied the research Collins conducted in 1867 while writing *The Moonstone*, have shown how he drew on Orientalist accounts of Indian history, blurring the line between fact and fiction.<sup>74</sup> Collins' account of Hindu-Muslim conflict turns attention away from British expansion in India, although Leila Neti notes in her reading that the narrator's account of the British raid of Seringapatam, specifically Tipu's treasury, is "one of the more historically accurate elements of the story."<sup>75</sup> By conforming the story of India's past to a series of linear events between Hindu and Muslim faiths, Collins' narrative demonstrates a commitment to historical citation while fictionalizing the very details of this history. In other words, *The Moonstone's* prologue invites readers to ponder the difference between and the overlap of fact and fiction. The prologue establishes India as an object of stable knowledge, leaving change and forward progress to the agents involved in the diamond's trajectory in England and then its return to India.

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<sup>73</sup> Collins, 3.

<sup>74</sup> Lauren Goodlad notes that "Collins prepared for *The Moonstone* by reading Indian history in the Athenaeum library." See *The Victorian Geopolitical Aesthetic: Realism, Sovereignty, and Transnational Experience* (Oxford and New York: Oxford University Press, 2015), 115. Melissa Free writes that Collins' source material include "a *History of India*; a biography of the general, Sir David Baird, who led the Siege of Seringapatam; a book on gemstones; and a letter solicited from John William Shaw, a member of a distinguished Anglo-Indian family and of the Indian Civil Service." See "'Dirty Linen': Legacies of Empire in Wilkie Collins' *The Moonstone*," *Texas Studies in Literature and Language* 48, no. 4 (2006): 340-371, 347.

<sup>75</sup> Leila Neti, *Colonial Law in India and the Victorian Imagination* (Cambridge: Cambridge University Press, 2021), 137.

History, especially the question of how history is narrated, is central to *The Moonstone*. As discussed above, the prologue raises the intersection between fiction and history. The first installment of the narrative, told by Gabirel Betteredge, the loyal household servant of the Verinder family, develops the issue of writing history even further. As Betteredge explains why he writes his testimony of the diamond, he cites Franklin Blake's instructions:

In this matter of the Diamond,' [Blake] said, 'the characters of innocent people have suffered under suspicion already—as you know. The memories of innocent people may suffer, hereafter, for want of a record of the facts to which those who come after us can appeal. There can be no doubt that this strange family story of ours ought to be told. And I think, Betteredge, Mr. Bruff and I together have hit on the right way of telling it.<sup>76</sup>

Blake's instructions raise several points about *The Moonstone's* self-reflective act of writing history. One is that writing historical accounts involve an authority that comes with the ability to narrate. "Mr. Bruff and I together have hit on the right way of telling it," Blake tells Betteredge; that there is a "right way" of telling this story implies that there are other ways of telling it, too. Not only are Blake and Bruff—inheritor and lawyer—given the authority to dictate how the narrative will be told, this passage makes a second point about how their authority extends into the future as well: the story "ought to be told" for people "hereafter," for "those who come after us." What this means is there is an anticipatory function in the instructions that makes reference to a future yet to come. In an article about the histories of freak show autopsies of Black

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<sup>76</sup> Collins, *The Moonstone*, 7.

enslaved laborers in the nineteenth-century, Danielle Bainbridge identifies a rhetorical tool assisting “the preservation of these histories.”<sup>77</sup> Even though *The Moonstone* is set in a different, though still interconnected, archival context, I find that the “anticipatory nature” of historical documentation Bainbridge identifies in the archive is useful here: a future perfect tense “describing an event yet to happen.”<sup>78</sup> For Bainbridge, the use of the future perfect tense in the archival documentations of histories of violence such as slavery is a way of controlling an “unseen future history.” The future present tense is about dictating “the unwritten history of an unarrived future.”<sup>79</sup> Blake’s instructions in *The Moonstone* are written in the context of British colonization, not American slavery, but they nevertheless express the anticipatory function of a future perfect tense Bainbridge writes about. These instructions, this narrative in *The Moonstone*, is about “adequately prepar[ing] for the future.”<sup>80</sup>

There is a third point these instructions make about the implications of writing history. Blake explains to Betteredge, “We have certain events to relate...and we have certain persons concerned in those events who are capable of relating them [...] the idea is that we should all write the story of the Moonstone in turn—as far as our own personal experience extends, and no farther.”<sup>81</sup> By amalgamating different testimonies with contrasting points of view, Collins makes visible the production of history-telling. By combining the function of character and narrator, Collins draws attention to *who* is telling the story, undermining authorized speech through a series of character-narrators we ultimately cannot trust. *The Moonstone* raises, as Saidiya

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<sup>77</sup> Danielle Bainbridge, “The Future Present, Autopsy, and Enfreakment on the Nineteenth-Century Stage,” *The Drama Review* 64, no. 3 (2020): 11-117, 102.

<sup>78</sup> Bainbridge, “The Future Present,” 103.

<sup>79</sup> Bainbridge, 103.

<sup>80</sup> Bainbridge, 103.

<sup>81</sup> Collins, *The Moonstone*, 8.

Hartman writes in the Transatlantic context of the archives of slavery, “the ethics of historical representation.”<sup>82</sup> In Blake’s instructions and in Betteredge’s execution of these instructions is a decision that determines our knowledge of the Verinder family and the scandal of the moonstone. In turn, *The Moonstone* controls the history-telling of British colonization, showing the reader how its characters decide on the knowledge that is passed down to future generations. As a narrative that unfolds across thirteen discreet reports, written by eleven different character-narrators and various minor narrators, *The Moonstone* reconstructs its story in a form reminiscent of a trial procedure.<sup>83</sup> No single perspective is authoritatively trustworthy; instead, the story of the missing diamond comes to light from the consensus of all the divergent testimonies orchestrated by the “editor” of the story, Franklin Blake, significantly sponsored by the family lawyer, Mr. Bruff.

### Codifying Character

As each character tells their own story about the diamond, and as the reader is tasked with piecing together all the stories to form their own judgment, what emerges is a depiction of a system of relations created through the representation of various literary characters. By *character* I mean that Wilkie Collins depicts character as a “disposition distinguished by its ability to adhere to conventions even as it departs from them, a disposition defined by minute but iterative

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<sup>82</sup> Saidiya Hartman, “Venus in Two Acts,” *Small Axe* 12, no. 2 (2008): 1-14, 5.

<sup>83</sup> See Jonathan H. Grossman, *The Art of Alibi: English Law Courts and the Novel* (Baltimore and London: The Johns Hopkins University Press, 2002).

acknowledgements and dismissals of expectations, assumptions, and empirical facts.”<sup>84</sup> In D. A. Miller’s seminal reading of *The Moonstone*, he argues that the novel replaces the unified figure of the detective with the function of detection, dispersing the work of detection to the novel’s community of character-narrators. The novel, then, dispenses with any outward signs of “the legal systems of surveillance, trial, and punishment” but “this is because its own organization anticipates and contains them.”<sup>85</sup> The novel can do away with the literalization of policing power because it depicts everyday life with policing power as always already embedded in it. “Everyone’s behavior in this world is being continuously encoded according to shared norms of psychological and moral verisimilitude.”<sup>86</sup> When behavior is coded as deviant, then the details of their behavior turn into evidence for suspicion. This is how the novel trains its readers’ capacity for detection. As the reader learns the function of detection through the novel’s character-narrators, they also learn to identify the signs and codes of what could be interpreted as ‘criminal’ or ‘criminal activity’. What this means is that it is individuality, how one is perceived as an individual, that is important to the novel. Collins explores this through character.

As I’ve shown above, the codification movement in India during the second half of the nineteenth century initiated widespread reforms in codified law in order to regulate and make predictable native social behavior. While I do not focus on one particular law or act, my aim is to bring the context of the codification movement, its general effects, to bear on the policing of social behavior and individual character in *The Moonstone*. The codification movement developed a colonial form of rule where “all social behaviors were to be observed and all social

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<sup>84</sup> Jonathan Farina, *Everyday Words and the Character of Prose in Nineteenth-Century Britain* (Cambridge: Cambridge University Press, 2017), xiv.

<sup>85</sup> D.A. Miller, “From Roman Policier to Roman-Police: Wilkie Collins’ ‘The Moonstone,’” *NOVEL: A Forum on Fiction* 13, no. 3 (1980): 153-170, 163.

<sup>86</sup> Miller, “From Roman Policier to Roman-Police: Wilkie Collins’ ‘The Moonstone,’” 161.

types counted by the state; no terrain of social activity was free of scrutiny.”<sup>87</sup> This kind of social control seeps into the narrative structure of *The Moonstone*: characters search each other’s person for clues to their character and make judgments based on their observations. As a result, the novel marshals characters into “social types”, dividing them along a binary of ‘good’, ‘bad’, or ‘criminal’. In *The Moonstone*, the narratives of each character function as a form of testimony, similar to the testimony of a witness on trial. Evidence takes the form of moral codes and behavioral patterns. In the novel, these codes become windows onto one’s individual culpability. What this means is that while the novel is invested in exposing the truth of the missing diamond, it is equally invested in tracking the process by which individuals fashion themselves through normative codes and behaviors. This aim emerges when Blake asks people to write their accounts “starting” from “plain facts” and “as far as our own experiences extends, and no further.”<sup>88</sup>

With these instructions in mind, Betteredge begins his narration. But we are surprised, even frustrated, when Betteredge struggles to stay on topic. His narration begins with a series of fits and starts. As a result, we end up learning more about him rather than the actual mystery. Collins is being very intentional here, showing how the novel is firstly invested in depicting the character of the people who tell their stories. Appealing to the reader, Betteredge begins by sketching a rough character of himself through his obsession with the text *Robinson Crusoe*:

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<sup>87</sup> Durba Mitra, *Indian Sex Life: Sexuality and the Colonial Origins of Modern Social Thought* (Princeton and Oxford: Princeton University Press, 2020), 70.

<sup>88</sup> Collins, *The Moonstone*, 8.

When my spirits are bad—*Robinson Crusoe*. When I want advice—*Robinson Crusoe*. In past times when my wife plagued me; in present times when I have had a drop too much—*Robinson Crusoe*. I have worn out six stout *Robinson Crusoes* with hard work in my service. On my lady's last birthday she gave me a seventh. I took a drop too much on the strength of it; *Robinson Crusoe* put me right again. Price four shillings and sixpence; bound in blue, with a picture into the bargain.<sup>89</sup>

At the end of the first chapter, Betteredge confesses, “I seem to be wandering off in search of Lord knows what, Lord knows where. We will take a new sheet of paper, if you please, and begin again” (9). But after several more pages of details regarding his relationship to his daughter, the end of the second chapter concludes similarly to the first. He tells the reader, “keep your temper” while he will “begin it all over again for the third time.” “I wonder whether the gentlemen who make a business and a living out of writing books, ever find their own selves getting in the way of their subjects, like me?”<sup>90</sup> I read this declaration as an allegory of the way that British colonial histories are told by a conglomerate of English selves getting in the way of the telling of that history. Betteredge's false starts—and him pointing out that they are false starts—gives insight into the role of performance in narrative-telling. Mirroring the temporality of the novel's prologue, Betteredge's narrative also takes a series of stops or detours into the past before it can focus on the reason for its telling, the mystery of the diamond. The reader does not get a straightforward account of the missing diamond. Instead, we get a sketch of the character who will be doing the telling of the narrative. This is similar to the prologue in that—rather than

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<sup>89</sup> Collins, 9.

<sup>90</sup> Collins, 13.

learning about the accuracy of Herncastle's crime and a legitimate history of India's colonization—we learn about the character of the narrator and Herncastle himself.

#### Conclusion: Inheritance, Colonial Futures, and the Role of Character

If *Felix Holt* uses forms of inheritance to secure a model of white nationalism for a future unrivaled, then Wilkie Collins' *The Moonstone* activates how these forms carry with them pre-existing colonial hierarchies for generations to come. *The Moonstone* is about the disappearance of a valuable Indian diamond inherited by Rachel Verinder on her birthday. Rachel inherits the diamond through her late uncle, John Herncastle, a soldier in the East India Company's army, who stole the diamond during the imperial conquest of Seringapatam in 1799. On his deathbed back in England, dishonorably discharged from his military service and ostracized by his family, Herncastle bequeaths the stolen gem to his niece out of vengeance towards his sister. But what I'm interested in here is how inheritance turns up in the self-reflective form of the written word, of what the novel self-proclaims as documenting for generations in the future.

In this well-known detective story, where the plot is narrated through a series of letter-testimonies by eleven different character-narrators, *The Moonstone* reconstructs its story in the form of a trial procedure. No single perspective is authoritatively trustworthy; instead, the story of the missing diamond comes to light from the consensus of all the divergent testimonies orchestrated by the "editor" of the story, the protagonist Franklin Blake. The purpose of amassing these testimonies, Franklin explains, is to create "a record of the facts to which those who come after us can appeal. This story ought to be told. And I have hit on the right way of

telling it.”<sup>91</sup> Blake’s words here raise many points about *The Moonstone*’s self-reflective act of writing history and the authority involved in the act of writing. I’m arguing that *The Moonstone* is a fictionalized archive that stages the active process of turning events and memories into facts for historical intelligibility and posterity. When Blake explains that the testimonies he’s compiled are so that “those who come after us can appeal”, the novel reveals the anticipatory function of its documentation, how its entire modus operandi is in service of a future yet to come.

By the end of the novel, it is revealed that Blake-the editor is also thief-of-the-diamond, though he goes unscathed, marries Rachel, inherits property and titles from both sides of his family, and the diamond returns to Indian territory. Postcolonial critics of *The Moonstone* are largely split into two camps: those who view the novel as critical of the imperial project and those who view it as upholding colonial logic, if not making a direct case for English imperialism.<sup>92</sup> To my mind, the key to deciphering *The Moonstone*’s colonial politics is through the way Wilkie Collins makes visible the production of history-telling. I explore how this form of anticipation in Collins’ use of the epistolary genre unwinds from the codification practices of the 1860s-1870s in India, a legal reform movement that, placing new emphasis on cultural and racial difference, sought to make native behavior predictable in the aftermath of the Indian

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<sup>91</sup> Collins, 7.

<sup>92</sup> For readings that argue *The Moonstone* is a critique of British imperialism, see John Reed, “English Imperialism and the Unacknowledged Crime of *The Moonstone*,” *Clio* 2 (1973): 281-90; Ian Duncan, “*The Moonstone*, the Victorian Novel, and Imperialist Panic,” *Modern Language Quarterly* 55, no. 2 (1994): 297-319. For readings that argue *The Moonstone* reinforces British imperialism see Patrick Brantlinger, “What is ‘Sensational’ About the ‘Sensation’ Novel?” *Nineteenth-Century Fiction* 37, no. 1 (1982): 1-28; Ashish Roy, “The Fabulous Imperialist Semiotic of Wilkie Collins’s *The Moonstone*,” *New Literary History* 24, no. 2 (1993): 657-681.

Rebellion of 1857. In other words, codified law was also invested in casting predictions about a future yet to come.

Collins literary ambition to “trace the influence of character on circumstances,” as he wrote in the preface to *The Moonstone*, echoes the efforts of colonial lawmakers like James Fitzjames Stephen to forge a reciprocal relationship between a people’s character and their so-called modern institutions.<sup>93</sup> Collins’ conception of literary ‘character’—derided by one contemporary critic as “absurd extravagance [...] not human enough to excite a faint of emotion”—springs into startling interest when we explore it with the invention of a rule of law responsible for disciplining native people along normative codes of behavior.<sup>94</sup> I have argued that Collins uses the epistolary form to expose ‘character’ as the production of routine assumptions, performances, and codes that stem from colonial legal reforms shaping the native subject along fixed categories of race, gender, and sexuality. By studying Stephen’s legal interest in ‘character’ as a tool for securing a future rooted in colonization alongside the epistolary function of *The Moonstone*, we shed new light on how conceptions of ‘character’ are linked to specific practices of colonial rule.

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<sup>93</sup> Collins, Preface to *The Moonstone*, 1.

<sup>94</sup> Quoted in *Wilkie Collins: The Critical Heritage*, ed. Norman Page (London: Routledge, Taylor & Francis Group, 1995), 171-172.

## CHAPTER THREE

### Colonial Comparison and Metropolitan Ethnography in Thomas Hardy's *The Return of the Native*

In an 1883 *Longman's Magazine* article entitled "The Dorsetshire Labourer," Thomas Hardy attempts to correct metropolitan perceptions of the agricultural worker as a "degraded being of uncouth manner and aspect, stolid understanding, and snail-like movement."<sup>1</sup> Hardy refers to this assemblage of derogatory characteristics as "the pitiable picture known as Hodge," a stereotypical figure standing for the entire rural farming community "assumed to be a uniform collection of concrete Hodges."<sup>2</sup> Arguing against this reductive casting of the agricultural worker, Hardy discerns that misconceptions arise through hasty and faulty forms of observation, supplying the example of the "philanthropic lady" who visits the home of a rural family and, struck by the unfamiliar dark-toned coloring of its interior trappings customary to Dorset, mistakes the scene for evidence of workfolk "slovenliness...their squalor and misery."<sup>3</sup> Hardy, suggesting that the solution to this practice of harmful and inaccurate perception is to observe more carefully, offers a hypothetical remedy: suppose someone from the "contrasting world of London" were to "go by rail to Dorset, where Hodge in his most unmitigated form is supposed to reside."<sup>4</sup> Hardy refers to this someone as a "visitor", a "stranger", an "investigator", and a "gentleman" who, after staying in Dorset among the "workfolk" for six months, would realize the plurality existing within their community: the static figure of the 'Hodge' turned into "a

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<sup>1</sup> Thomas Hardy, "The Dorsetshire Labourer," in *Thomas Hardy's Public Voice: The Essays, Speeches, and Miscellaneous Prose*, ed. Michael Millgate (Oxford: Clarendon Press, 2001), 38. All quotations from "The Dorsetshire Labourer" are taken from Millgate.

<sup>2</sup> Hardy, "The Dorsetshire Labourer," 37.

<sup>3</sup> Hardy, 41.

<sup>4</sup> Hardy, 39.

number of dissimilar fellow-creatures, men of many minds, infinite in difference.”<sup>5</sup> This “great change in his perception” would prime the visitor to discern the social and historical conditions of the Dorsetshire laborer, preparing the former to learn, for example, that the latter’s use of language isn’t “a vile corruption of cultivated speech” but a blend of “the printed tongue” they learned at the National school and the “unwritten dying Wessex English that they learned of their parents.”<sup>6</sup> In this article and in his wider fictional work, Hardy used his writing to give normative force to *a way of life* that was local, specific, and rooted in customs rapidly changing or disappearing.<sup>7</sup>

During a time when Parliament heavily debated whether to extend the franchise to agricultural workers, Hardy wrote this article to raise awareness of the destabilizing forces changing the socio-economic conditions in Dorset. He even appealed to prime minister William Gladstone and John Morley, a leading member of the party’s more radical wing, sending them copies of the article along with a letter to Morley stating, “Though a Liberal, I have endeavored to describe the state of things without political bias.”<sup>8</sup> “[W]ithout political bias” conveys the mode of impartiality Hardy aspired to maintain as he addressed the plight of agricultural workers to a metropolitan and middle-class readership disconnected from the lived experiences of the Dorset farming community. His appeals encourage metropolitan readers to move beyond their personal affiliations and prejudices for a deeper understanding of the rich complexities of people

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<sup>5</sup> Hardy, 40.

<sup>6</sup> Hardy, 40.

<sup>7</sup> In the context of defining the concept of ‘culture’ as the complex whole or unity of the norms of a specific community, I borrow the phrase “a way of life” from James Buzard’s *Disorienting Fictions: The Autoethnographic Work of Nineteenth-Century British Novels* (Princeton and Oxford: Princeton University Press, 2005), 22.

<sup>8</sup> Quoted in Millgate, *Thomas Hardy’s Public Voices: The Essays, Speeches, and Miscellaneous Prose*, 37.

living in Dorset. Readers of “The Dorsetshire Labourer” have remarked that Hardy instructs the reader on how to inhabit the role of the judicious participant-observer.<sup>9</sup> A balanced blend of observational detachment and immediate engagement, the participant-observer adopts a point of view that overcomes self-involvement and eschews prejudice, a standpoint many nineteenth-century writers and intellectuals explored as the ideal position from which to generate and advance forms of knowledge about people, cultures, and ways of living beyond one’s immediate environment and lived experience.<sup>10</sup> This particular mode of engaging the world, based on “situated observation and informed experience” as Amanda Anderson has memorably studied in *The Powers of Distance*, emerges from Enlightenment cultural ideals of critical reason, individuality, and sympathy.

At the same time, as postcolonial scholarship has promulgated for half a century now, the participant-observer is not a neutral position from which to comprehend impartially the behaviors and norms of people.<sup>11</sup> Far from fostering empathetic understanding of peoples’ lived realities, the participant-observer has been recognized for its colonial involvement in making “Other” marginalized, subjugated, or unenfranchised groups of people. What Hardy envisions in

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<sup>9</sup> See Roger Ebbatson, “The Dorsetshire Labourer,” in *Hardy: The Margin of the Unexpressed* (Sheffield: Sheffield Academic Press, 1993), 129-153 and Ronald D. Morrison, “Culture and Agriculture in ‘The Dorsetshire Labourer’ and ‘The Mayor of Casterbridge’: An Ecocritical Approach,” *The Hardy Review* 15, no. 2 (2013): 52-67.

<sup>10</sup> Anderson explores modern forms of detachment developed by a range of nineteenth-century writers. See *The Powers of Distance* (Princeton and Oxford: Princeton University Press, 2001).

<sup>11</sup> See Mary Louise Pratt, *Imperial Eyes: Travel Writing and Transculturation* (New York: Routledge, 1992); Edward Said, *Orientalism* (New York: Pantheon Books, 1978); Johannes Fabian, *Time and the Other: How Anthropology Makes its Object* (New York: Columbia University Press, 1983); George W. Stocking, Jr., *Colonial Situations: Essays on the Contextualization of Ethnographic Knowledge* (Milwaukee: University of Wisconsin Press, 1993); and *Race, Culture, and Evolution: Essays in the History of Anthropology* (Chicago and London: University of Chicago Press, 1982).

the example of an outsider living among the Dorset community who “becomes conscious of a new way of life” is entangled in a colonial discourse of anthropological observation dominating modern social research towards the end of the nineteenth century.<sup>12</sup> In this chapter, I explore how Hardy creates literary forms of the participant-observer to make Wessex culture legible for a metropolitan audience. I turn to *The Return of the Native* to show how Hardy experiments with the limits of the participant-observer. Hardy utilizes the affordances of critical distance, detachment, and temporalized spatiality within an aesthetic and fictionalized domain, identifying the limits of a practice attempting to reduce communities into abstract formations of a specific culture. The participant-observer inhabits a place within the bounds of a community yet, using the tools of critical reason, manages a mode of detachment from the community as well, operating on both sides of that binary.

This chapter begins by showing the conceptual work Hardy draws on to create the space-time imaginary of civilizational development in *The Return of the Native*. Forms of comparison, observation, and distance structure Hardy’s depictions of English rural life and are most sharply articulated through the colonial origins of the anthropological discipline, I argue. After charting some of the anthropological assumptions the novel makes about the place of native life and culture on the spectrum of civilizational development, I turn to the work and thought of British jurist, administrator, and founder of comparative jurisprudence, Henry Sumner Maine. As one of the founding figures of anthropology and sociology, Maine institutionalized a method of comparison that would go on to influence later colonial models of native society, newly defined as *traditional* society in opposition to *modern* society, within the discipline of anthropology throughout the twentieth century. His most influential theory of civilizational development, that

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<sup>12</sup> Hardy, “The Dorsetshire Labourer,” 50.

all ancient societies transition from a state of “status” (traditional, communal relations of kinship) to a state of “contract” (contractual relations between modern individuals), provided for the first time a universal formula to compare societies across historical time and geographical space, extract their similarities and differences, and establish their developmental phases. Rather than reproduce a traditionally hierarchical structure in which to rank societies, the status-to-contract model generated a spatialized grid where societies exist alongside one another, yet in different temporalities.

Maine’s ideas about native society, which explored how to “preserve” and “protect” the customary basis of native relations for the long-term benefit of imperial rule, were fundamental to the development of the British Empire during the second half of the nineteenth century. Whereas imperial practice in the first half of the century sought to aggressively assimilate native societies along Western lines of civilization, the governing strategies of the 1860s and 1870s placed new emphasis on the cultural and religious differences of native societies.<sup>13</sup> As Legal Member of the Viceroy’s Council from 1863-1869 in India, Maine initiated attempts to study and incorporate knowledge of native beliefs and customs into the legal practices of imperial rule. As I show, *The Return of the Native* draws on methods of comparison, observation, and distance that Maine helped institutionalize by the time it was published in 1878, but it also hinges on the problem of the social transition from “status” to “contract”. The novel begins with the protagonist Clym Yeobright returning to Egdon Heath, the rural place of his birth, after years of living in Paris, the metropole of his education and where he becomes a modern subject. When he

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<sup>13</sup> I draw heavily on Karuna Mantena’s work here, which describes this shift as “a transition from a universalist to a culturalist stance” in British rule, or the switch from direct to indirect rule. See *Alibis of Empire: Henry Maine and the Ends of Imperialism* (Princeton: Princeton University Press, 2010).

resumes his life on the heath, instead of ascending social class in Paris, his fellow heath-dwellers interpret this decision as “an attempt to disturb the sequence to which humanity had been long accustomed.”<sup>14</sup> The novel ends with Clym’s inability, or failure, to reassimilate into his native community and regain the kinship ties of his earlier life before Paris. Clym’s return to Egdon Heath becomes an occasion to unsettle the category of the ‘native’ Maine uses to organize his two-step model of civilizational development. *The Return of the Native* resists Maine’s totalizing categories “status” and “contract”, revising Egdon Heath as a site not bound by either but by multiple spaces and temporalities.

Hardy’s 1878 novel, then, is not simply immersed in ideologies of empire but enacts “its own kind of critical link-making,” connecting the class politics of rural communities in the English countryside to the legal politics of colonialism.<sup>15</sup> *The Return of the Native* charts connections among evolutionary theories of civilizational development, cultural difference, and colonial binaries that comment on this historical moment, the 1870s, when the British Empire was drastically revising its legal policies in colonies such as India. Departing from the binarism of colony vs. metropole, Hardy’s novel provides new ways of thinking about their interdependence. I read *The Return of the Native* in terms provided by Henry Sumner Maine’s proto-anthropological thinking in *Ancient Law* and *Village Communities* in order to reveal the relationship between Hardy’s ethnographic depictions of rural class politics and the anthropological origins of imperial legislation abroad in India. By parsing the shared logic of

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<sup>14</sup> Thomas Hardy, *The Return of the Native* [1878], ed. Simon Gatrell (Oxford: Oxford University Press, 2008), 171.

<sup>15</sup> Nathan Hensley uses the phrase “critical link-making” to chart “the relationship between the protocols of domestic Reform and those of imperial globalization.” See *Forms of Empire: The Poetics of Victorian Sovereignty* (Oxford and New York: Oxford University Press, 2016), 113. I too use a similar method to understand how Hardy’s commentary on rural working classes develops through and furthers legal practices of the British Empire.

these two sides of the discourse civilizational development, *The Return of the Native* underscores that in the 1870s, it was not just England's modernizing project "at home" that fissured divisions between country and city, nor metropolitan prejudices of farming communities in the countryside, but a burgeoning discourse of anthropological thinking that equipped colonial administrators with the means of extending British hegemony into the future.

### Egdon Heath and the Space-Time Imaginary of Civilization

The description of Egdon Heath at the beginning of *The Return of the Native* depicts a space-time imaginary marshalling land, people, and culture on a developmental spectrum from a state of primitivism to modernity. Egdon Heath is "a vast tract of unenclosed wild," a remote region with "ancient permanence" giving "ballast to the mind adrift on change, and harassed by the irrepressible New."<sup>16</sup> Giving voice to a *longue durée* vision of nature Hardy was in these years developing through the evolutionary theories of Charles Darwin, E.B. Tylor, and others, Egdon Heath, having endured "the crises of so many things," has "remained" the same, even while "the villages, and the people changed."<sup>17</sup> Mythic references, aligning the landscape with the face of Atlas and the vale of Tempe, position the heath in a prehistoric past. Historical references, such as the arrival of the Celts, the Domesday Book, and the enclosure of the commons, document Egdon Heath's movement towards the horizon of private property, its entrance into modern time. This striking portrait of Egdon Heath has led many critics to view

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<sup>16</sup> Hardy, *The Return of the Native*, 12.

<sup>17</sup> Hardy, 12.

this Wessex setting as the novel's main protagonist.<sup>18</sup> It is perhaps more accurate to say that the function of the heath is more about its embodiment of specific relations between people and objects that activate a particular sense of locality. In its production of locality, *The Return of the Native* participates in a colonial discourse that classifies and arranges different human cultures into stages of civilizational development.<sup>19</sup>

Following James Buzard's influential study on the British nineteenth-century metropolitan novel, which posits the novel as a form of proto-anthropology, I argue that *The Return of the Native* develops its ethnographic vision of Egdon Heath and its inhabitants from the anthropological breakthroughs occurring in colonies like India, where the study of people, land, and culture was used to further British legal policies abroad. To speak of Egdon Heath is to speak of an imaginary space epistemologically oriented towards a hierarchy placing 'archaic' ways of life outside of the modern present. Hardy's narrator fits Egdon Heath into a type of historicism that makes distinctions between the "now" of modern civilization and the "not yet" of supposedly underdeveloped societies.<sup>20</sup> This notion of history, as postcolonial scholars like Dipesh Chakrabarty and Uday Singh Mehta have argued, implies the geographical and political realities of Europe's colonial rule throughout the nineteenth century. *The Return of the Native* is not "about" Britain's colonial practices abroad, yet its space-time imaginary draws from a political practice of colonialism that defined different human societies based on their distance or

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<sup>18</sup> See Hardy, *The Return of the Native* (Oxford: Oxford University Press, 2008), xi-xii for Margaret R. Higonnet's assessment of the critical reception on the portrayal of Egdon Heath.

<sup>19</sup> I borrow the term "production of locality" from Arjun Appadurai, "Putting Hierarchy in its Place," *Cultural Anthropology* 3, no. 1 (1988): 36-49.

<sup>20</sup> See Dipesh Chakrabarty, *Provincializing Europe: Political Thought and Historical Difference* (Chicago: University of Chicago Press, 2000), 8; Uday Singh Mehta, *Liberalism and Empire* (Chicago: University of Chicago Press, 1999).

proximity to the modern present, a practice Johannes Fabian calls “denial of coevalness.”<sup>21</sup>

Where colonialism turns racialized and subjugated people into Other beings living in a Time outside of the modern present, *The Return of the Native* turns its colonial gaze on the rural peasantry of England, documenting rural custom and culture as premodern, “survivals” from the past.

If Hardy’s narrator describes Egdon Heath as “those wild regions of obscurity” where “nobody could be said to understand the heath,” this unknowability sits uncomfortably with its presentation as highly observable terrain.<sup>22</sup> The opening chapters train the reader’s angle of vision to take in grandiose views of distance: there’s “the hollow *stretch* of whitish cloud”; “the heaven being *spread* with this pallid *screen*”; “meeting line at the *horizon*”; “the *distant* rims of the world”; “the sombre *stretch* of rounds and hollows seemed to rise and meet,” and so on.<sup>23</sup> As characters begin to appear in the narrative frame, the narrator draws attention to their eyes, inviting readers to “see” with them: “The old man frequently stretched his eyes ahead to gaze over the tract”; “the scene before the reddleman’s eyes”; “his eye...keen as that of a bird of prey”.<sup>24</sup> Building an atmosphere based on this grammar of vision, these phrases connote *distance*, *expansion*, and *detachment*, concepts rooted in the project of Enlightenment that made power distinctions between those who can observe and those who are observed. By using distance as a tool of observation to produce knowledge, Hardy shares with many of his Victorian contemporaries a preoccupation with the political and moral dimensions of cultivated distance meant to encompass a range of practices from self-reflexivity to scientific reason to sympathetic

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<sup>21</sup> Johannes Fabian, *Time and the Other: How Anthropology Makes Its Object* (New York: Columbia University Press, 1983), 31.

<sup>22</sup> Hardy, *The Return of the Native*, 11.

<sup>23</sup> Hardy, 9.

<sup>24</sup> Hardy, 13, 16, 14.

cosmopolitanism.<sup>25</sup> In *The Return of the Native*, acts of distancing present Egdon Heath and its inhabitants as objects that can be known and studied. My point is that the novel trains the reader to develop an ethnographic eye towards a group of inhabitants assumed as “other”, in this case the rural peasants of Egdon Heath.

At first, these early fixations on distance seem at odds with a novel that is self-consciously parochial. Egdon Heath, “where the eye could not reach nothing of the world outside the summits and shoulders of heathland,” may appear as isolated territory, but Hardy’s narrator clarifies the heath’s relationship to the wider world.<sup>26</sup> We are told that Egdon Heath has a single “aged highway”: “[i]n many portions of its course it overlaid an old vicinal way, which branched from the great western road of the Romans, the Via Iceniana, or Ikenild Street.”<sup>27</sup> Here, the narrator places this local, old highway in relation to some of the great roads in history, not only inserting the local road in a longer genealogy of journeys taken and traversed but also calling forth something like a form of distance that enables *comparison*, a method of articulating commonalities and differences between entities. Its very title, *The Return of the Native*, implies comparison between the native home and the elsewhere from which the native, Clym Yeobright, has come. Hardy’s novel dramatizes the comparison between Egdon Heath, Clym’s native home of old and dying rural civilization, and the Paris metropole, the modern, affluent city bearing opportunities for Clym’s social advancement. “I hadn’t the least idea that you meant to go backward in the world by your own free choice,” Clym’s mother reacts when she learns Clym

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<sup>25</sup> See Anderson, *Powers of Distance*, 3-33.

<sup>26</sup> Hardy, 11.

<sup>27</sup> Hardy, 12.

will give up his career in Paris, remaining in Egdon Heath to become “a schoolmaster to the poor and ignorant.”<sup>28</sup>

Comparison, then, is part of Hardy’s method in *The Return of the Native*. As Nirvana Tanouki argues in her critique of world literature, comparison depends on an “articulation of distance within a particularly spatialized system of social relations.”<sup>29</sup> The narrator depicts Egdon Heath as a zone of intersecting spatial and temporal comparisons, Egdon Heath is *this*, Egdon Heath is *not this*. “Civilization was its enemy,” we are told: a person dressed “in raiment of modern cut” looks “anomalous” on the heath’s “earth...so primitive.”<sup>30</sup> In the space-time imaginary of *The Return of the Native* each character, each place, each action assumes its rightful place. The space-time comparison between Egdon Heath and Paris, the class division between the well-to-do Yeobright family and the rest of the heath-dwellers, Clym’s “regression” from metropolitan jewelry-seller to heath furze-cutter, are all key points of comparative distance operating on a spectrum of civilizational development.<sup>31</sup> Even the reader is implicated in this colonial system of social relations, as Gillian Beer suggests in her notable essay on Hardy’s novel. Beer writes that the readerly position enacts “interpretive distance and cultural privilege”

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<sup>28</sup> Hardy, 173.

<sup>29</sup> See Nirvana Tanouki’s “The Scale of World Literature,” *New Literary History* 39, n. 3 (2008): 599-617, 605.

<sup>30</sup> Hardy, 11.

<sup>31</sup> As Hardy was preparing *The Return of the Native* for serialization, he altered his portrayals of characters, situations, and events in order to appease a predominately middle-class readership. Pamala Dalziel has studied how Hardy revised the main characters of the novel to have more “modern” professions so they could be more relatable to metropolitan readers. See Pamala Dalziel, “Anxieties of Representation: The Serial Illustrations to Hardy’s *The Return of the Native*,” *Nineteenth-Century Literature* 51, no. 1 (1996): 84-110, 87.

since reading is itself “an outcome of an education most of these native inhabitants [in Hardy’s novel] do not share.”<sup>32</sup>

### Henry Maine and the Tool of Comparison

Related to the space-time comparisons *The Return of the Native* makes between past and present, archaic and modern, Egdon Heath and Paris, Hardy’s diary entry from 1890 uses comparison to turn cultural difference into an equation of universal sameness:

December 18. Mr E. Clodd this morning gives an excellently neat answer to my question why the superstitions of a remote Asiatic and a Dorset labourer are the same: ‘The attitude of man’, he says, ‘at corresponding levels of culture, before like phenomena, is pretty much the same, your Dorset peasants representing the persistence of the barbaric idea which confuses persons and things, and founds wide generalizations on the slenderest analogies.’<sup>33</sup>

Equating “a remote Asiatic” with “a Dorset labourer” allows Hardy to place them on the same point on the spectrum of civilizational development. Both are separated by geographical, cultural, national, and class difference but Hardy’s logic places them side-by-side in an earlier stage of cultural development rooted in “the barbaric idea” of “superstitions” as opposed to rationality. This conception of the “corresponding levels of culture” came to Hardy through a

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<sup>32</sup> Gillian Beer, “Can the Native Return?” in *Open Fields: Science in Cultural Encounter* (Oxford: Clarendon Press, 1996), 31-54, 39

<sup>33</sup> Quoted in Gillian Beer, *Darwin’s Plots: Evolutionary Narrative in Darwin, George Eliot, and Nineteenth-Century Fiction* (New York: Cambridge University Press, 2009[1983]), 221.

conversation with Edward Clodd, a Darwinist and the first president of the British Folklore Society. As Gillian Beer has shown, Charles Darwin's theories of change, development, and extinction of species were a major intellectual influence in Hardy's writings. Darwin's ideas about humans developing from a state of superstition to one of rationality is present in Hardy's depictions of Egdon Heath and its inhabitants. But Hardy's ethnographic enterprise in *The Return of the Native* is arguably most similar to that of the influential theorist of native society active in the 1860s-1870s, Henry Sumner Maine.

A founding figure of anthropology and sociology, Maine institutionalized a method of comparison that would go on to influence later models of native society, newly defined as *traditional* society in opposition to *modern* society, within the discipline of anthropology throughout the twentieth century. Maine is best remembered for his formulation of societies developing from "status-to-contract" in *Ancient Law* (1861), the "only legal best seller" of the century.<sup>34</sup> In Maine's progressive two-step narrative of social change, he described how primitive or kinship communities in a state of customary relations gradually transitioned into modern societies of individualized agents, how they transition from "status" to "contract." While Maine argued that all societies transition from status to contract, he believed that the speed and direction of this change varied across different societies. What was innovative about Maine's idea was that it provided a universal formula to compare societies across historical time and geographical space, extract their similarities, and establish their developmental phases. Rather than reproduce a traditionally hierarchical structure in which to rank societies, the status-to-

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<sup>34</sup> The phrase is from A. W. B. Simpson, quoted in Raymond Cocks, *Sir Henry Maine: A Study in Victorian Jurisprudence* (Cambridge: Cambridge University Press, 1988), i.

contract model generated a spatialized grid where societies exist alongside one another, yet in different temporalities.<sup>35</sup>

In this way Maine's comparative and evolutionary framework of gradual institutional development became a "methodological imperative" to British rule in India during the second half of the nineteenth century, as political theorist Karuna Mantena has argued.<sup>36</sup> After the Indian Rebellion of 1857, which had produced "a threatening portrait of native disaffection and imperial instability," Maine was part of a generation of British administrators who sought to reform imperial rule through a revived focus on the cultural particularities of Indian people.<sup>37</sup> During his seven-year tenure as a legal member of the Viceroy's Council India (1862-1869), Maine's colonial legislative practices departed from the earlier universalist project of "civilizing" natives along Western lines. With a new focus on "preserving" and "protecting" the customary basis of Indian society, Maine initiated attempts to incorporate knowledge of native beliefs and customs into the legal practices of imperial rule, an approach that reflected his belief in the unity between law and the society it governed.<sup>38</sup> The rationale behind Maine's legislative agenda was that law needed to harmonize with social conditions in order to activate India's adaptability to the standards of Western modernity. Now, in this period of Britain's indirect rule, native social and

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<sup>35</sup> This way of historicizing the different temporalities of native societies resonates deeply with Chakrabarty's famous metaphor of "the waiting room of history." He explains how political thinkers like John Stuart Mill (and Henry Maine, in this case) "consigned Indians, Africans, and other "rude" nations to an imaginary waiting room of history... This waiting was the realization of the "not yet" of historicism." See Chakrabarty, *Provincializing Europe*, 8.

<sup>36</sup> Mantena, *Alibis of Empire*, 126.

<sup>37</sup> Mantena, 1.

<sup>38</sup> What undergirded Maine's legal practices in India was the belief that the British had a responsibility to protect against "the capacity for law to become separated from the society it was supposedly to reflect," as previously argued in *Ancient Law*. For Maine, the unity between law and society could only be achieved through carefully guiding the speed and direction in which native societies progressed from "status to contract". See Raymond Cocks, *Sir Henry Maine*, 108.

political forms could coexist with the dynamics of imperial power. According to Mantena, Maine believed that sustained contact with native cultures generated “new methodologies by which unfamiliar cultures and practices would be made scientifically (and morally) comprehensible.”<sup>39</sup>

Maine’s tenure in India led him to recognize that his sole focus on Roman legal and kinship antiquities in *Ancient Law* limited his theories about the connections between ancient and modern societies.<sup>40</sup> Two years after his return from India, Maine gave a series of lectures at Cambridge compiled in *Village-Communities in the East and West* (1871) where he developed further his comparative method, this time focusing on the connections between Indian and European societies. In his opening lecture he introduces comparison as a complex method of temporal and spatial collapse:

[W]hen in particular we have learned not to exclude from our view of the earth and man those great and unexplored regions which we vaguely term the East, we find it to be not wholly a conceit or a paradox to say that the distinction between the Present and the Past disappears. Sometimes the Past *is* the Present; much more often it is removed from it by varying distances, which, however, cannot be estimated or expressed chronologically. Direct observation comes thus to the aid of historical enquiry and historical enquiry to the help of direct observation... The characteristic error of the direct observer of unfamiliar

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<sup>39</sup> Mantena, 57.

<sup>40</sup> Mantena, 122.

social or juridical phenomena is to compare them too hastily with familiar phenomena apparently of the same kind.<sup>41</sup>

With its play between time, space, and direct observation, this passage, like in Hardy's novel, shows the ethnographic impulse of the comparative method, as critics like Amanda Anderson, Christopher Herbert, and James Buzard have differently appreciated in the context of Victorian anthropology.<sup>42</sup> Using the comparative method requires, as Maine explains to his English audience, that "we have learned not to exclude from our view" the socio-political context of the "East". Highlighting the twined relation between direct observation and historical enquiry, Maine explains that the observer's task is to know the meaning and value of "unfamiliar social or juridical phenomena" categorized as "the Past" currently existing in "the Present." The point is that Maine's comparative method introduced the practice of studying and documenting the past to understand the present state of society. Here, as elsewhere, Maine's combination of historical and comparative method anticipates Hardy's ethnographic endeavor in *The Return of the Native*. The novel, in treating rural life in Egdon Heath as "the archaic past" and Clym's metropolitan education as the result of "the modern present," points to the problem of organizing communities along a temporal scheme of past and present.

Celebrated as a founding document of 'comparative jurisprudence', *Village-Communities in the East and West* sought to reconstruct the history of property, tracing how "the idea of private property" emerged out of "initial forms of communal or co-proprietorship."<sup>43</sup> In this

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<sup>41</sup> Henry Sumner Maine, *Village-Communities in the East and West* (London: John Murray, 1890 [1871]), 7.

<sup>42</sup> Christopher Herbert, *Culture and Anomie: Ethnographic Imagination in the Nineteenth Century* (Chicago and London: University of Chicago Press, 1991).

<sup>43</sup> Mantena, 127.

process, village-communities transitioned from a state of common and mixed ownership, where they cultivated and shared the resources of the land, to a state where land rights were increasingly divided into “different forms of use rights and ownership,” until the emergence of individual right and private property.<sup>44</sup> Maine would argue in his opening lecture at Cambridge that “Indian phenomena of ownership, exchange, rent, and price are equally natural, equally respectable, equally interesting, equally worthy of scientific observation, with those of Western Europe.”<sup>45</sup> By equating Eastern forms of land relation with Western notions of property, Maine suggested for the first time in Indian-Anglo governance that knowledge of Indian institutions could make significant contributions to civilizational progress. Against the dominant logic of a paternal model of imperial rule that understood the Indian village community as a barrier to modern civilization, Maine’s insight into the connections between archaic customs and modern ideas was a new way of thinking about the role of the village community in the path *towards* civilization.

As a result, Maine’s comparative method opened a new dimension of research opportunity and investment in India. Historian Clive Dewey writes that the impact of Maine’s method directed the attention of metropolitan elites, for example, to the colonial settlement reports British administrators had been working on in “isolation.”<sup>46</sup> Previously written as mundane administrative memorandums “with few ethnographic details”, these settlement reports

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<sup>44</sup> Mantena, 134.

<sup>45</sup> Maine, “The Effects of Observation of India on Modern European Thought,” *The Rede Lecture* (London: John Murray, 1875), 24.

<sup>46</sup> Dewey writes, “Maine cited their settlement reports, the great repositories of their accumulated wisdom, in his books; learned societies invited them to give lectures; learned journals invited them to contribute articles; universities showered them with academic honours; Oxford built the Indian Institute to house their publications.” Clive Dewey, “The Influence of Sir Henry Maine on Agrarian Policy in India,” in *The Victorian Achievement: A Centennial Reappraisal* ed. Alan Diamond (Cambridge and New York: Cambridge University, 1991), 364.

evolved into “major anthropological treatises” by the 1870s and 1880s, many of them running “to three or four hundred pages of detailed analysis of every aspect of rural society: village communities, castes, estates: whatever topics excited the settlement officer’s interest.”<sup>47</sup> Not only did Maine’s method offer an alternative to the utilitarian policies that had characterized governance in British India during the first half of the nineteenth century, but it also helped revitalize Indian society in the colonial gaze of Anglo-Indian administrators and metropolitan elites. As one administrator put it, this “investigation into the history of early institutions” would help them “earnestly see[k] a new guide for the future.”<sup>48</sup> What this means is that one of the consequences of Maine’s method is that it taught European scholars, historians, and anthropologists to take an interest in the agrarian policies colonial administrators were developing in British India<sup>49</sup>. More specifically, I am suggesting that Maine’s method taught English metropolitan society to take an interest in their own domestic past. Hardy takes up this task in *The Return of the Native*.

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<sup>47</sup> Dewey, “The Influence of Sir Henry Maine,” 365.

<sup>48</sup> Quoted in Dewey, 364. Here is the full quote: “It requires no very great boldness to prophesy that the time is not far distant when our views on points of administrative policy will be profoundly modified, nay, more probably shaped by, the results of investigation into the history of early institutions, and that this influence will be strongest of all in India, where we have begun to doubt the universal applicability of occidental methods, and are earnestly seeking a new guide for the future.” This was written by Denzil Ibbeston, who began his administrative career in India in 1870.

<sup>49</sup> For a detailed analysis of Maine’s comparative method and its influence on the relationship between land relations and colonial governance in 1860s-1870s British India, see Clive Dewey, “The Influence of Sir Henry Maine on Agrarian Policy in India,” in *The Victorian Achievement: A Centennial Reappraisal* ed. Alan Diamond (Cambridge and New York: Cambridge University, 1991), 353-375.

## Clym Yeobright as Native Anthropologist

According to Karuna Mantena, the reason why Maine centered India in his reconstruction of the history of property relations was to understand better its village-communities in the wake of their gradual dissolution, when villages in a state of “status” transition into a state of “contract” and property becomes individualized. While Maine believed that the movement towards private property was a sign of civilizational progress, his argument prioritized the “protection and preservation” of native land usage for the first time in Anglo-Indian administration history.<sup>50</sup> Maine argued that prioritizing native customs in relation to land would help colonial administrators apply the most appropriate and advantageous land revenue policies. Here, Maine departed from dominant understandings of land tenure in India modeled on the rubric of classic political economy, which, Maine believed, had hastened the deterioration of village-communities to the detriment of British rule. For Maine, then, there was urgency to the study of native customs within a comparative framework. India should be studied because “this remarkable society, pregnant with interest at every point, and for the moment easily open to our observation, is undoubtedly passing away...India itself is gradually losing everything which is characteristic of it.”<sup>51</sup>

It is well known that Hardy, too, lamented the changes happening in Wessex as a result of its ongoing modernization. Over the course of his life, Hardy grappled with his awareness that “the traditional culture of Dorset villages was being rapidly eroded and many of their buildings destroyed or transformed.”<sup>52</sup> Throughout his writing career, Hardy, as Simon Gatrell writes,

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<sup>50</sup> See Mantena, 138-145.

<sup>51</sup> Maine, *Village-Communities*, 24.

<sup>52</sup> “Note on the Text,” by Simon Gatrell, in *The Return of the Native*, xxix.

“came gradually to feel that part of his function as novelist was to preserve, imaginatively, through re-creation in his fiction, [this] disappearing environment and way of life.”<sup>53</sup> Maine and Hardy share the same interest in preserving native customs in India and England, respectively, but for different purposes. In the realm of colonial administration, Maine sought to enforce the so-called preservation of village communities to steady the pace of India’s modernization for the benefit of Britain’s growing empire. In the realm of literary fiction, Hardy sought to show how the path to contract amounted to a future of irreparable loss.

Furthermore, Hardy was a native to the land he sought to preserve in fiction, despite his strained ties to Dorset. As Raymond Williams’ has shown in his seminal reading of Hardy’s life and oeuvre, Hardy’s complex relation to Dorset, as well as his position as a writer, is rooted in class politics: he was born into a rural family with access to quality education but was not of the property-owning class.<sup>54</sup> Hardy’s father was a builder with the means to employ several men, so young Hardy grew up around working people, but he was neither the peasant nor laborer that he would go on to portray in his novels. According to Williams, Hardy’s lived experience as native to a rapidly changing Dorset village, coupled with his metropolitan education and class mobility, engendered in Hardy a lifelong fascination with “the problem of the relation between customary and educated life.”<sup>55</sup> His struggle to reconcile Dorset’s local history and customs with modern life and education forged a distance between his literary ambitions and his native status, turning him into “a chronicler of his Wessex”—both “educated observer and passionate participant.”<sup>56</sup>

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<sup>53</sup> Gatrell, “Note on the Text,” xxix.

<sup>54</sup> Raymond Williams, *The Country and the City*, (Oxford and New York: Oxford University Press, 1973), 200.

<sup>55</sup> Williams, *The Country and the City*, 198.

<sup>56</sup> Williams, 198, 204.

Williams situates Hardy's vexed position as both insider and outsider to Wessex culture within a biographical framework of his personal history, but I want to extend Hardy's function as a novelist to the comparative act embedded in the colonial origins of anthropology. The "strain" Williams identifies in Hardy's writing as "see[ing] as a participant who is also an observer," is actually *movement* that operates, comparatively, on a spectrum of civilizational development like Maine's two-step model of the "movement *from Status to Contract*."<sup>57</sup> Hardy's upbringing in Dorset connects him to the customary relations of rural life but his metropolitan education gives him the ability to consciously study these customary relations, to create distance in which to move away from and move toward his attachment to people and place. As observer and participant, then, Hardy shuttles between "two distinct worlds of meaning and action."<sup>58</sup> Hardy's relation to his Dorset community, and his portrayal of rural life in his novels, is similar to how Roy Wagner describes the anthropologist who "participate[s] in the subject culture not in the way a native does, but as someone who is simultaneously enveloped in his own world of meanings, *and these meanings will also participate*."<sup>59</sup> The point is that the duality of "customary life and education" Williams locates in Hardy's work entails a movement between, as David Scott writes of the anthropological journey, "a departure and a return [...]" simultaneously knowledge of something other and self-knowledge."<sup>60</sup> In *The Return of the*

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<sup>57</sup> Williams, 206; Maine, *Ancient Law: Its Connection with the Early History of Society and Its Relation to Modern Ideas* with notes and introduction by Frederick Pollock (Gloucester: Peter Smith, 1970 [1861]), 165.

<sup>58</sup> Roy Wagner, *The Invention of Culture* (Chicago and London: University of Chicago Press, 1981 [1975]), 9.

<sup>59</sup> Wagner, *The Invention of Culture*, 8.

<sup>60</sup> David Scott, "Locating the Anthropological Subject: Postcolonial Anthropologists in Other Places," *Inscriptions* 5 (1989): 75-84, 75.

*Native* Hardy explores this movement of departure and return in the novel's protagonist, Clym Yeobright.

The novel begins with Clym's return to Egdon Heath after years of living in Paris, the metropole of his education and where he begins a promising career in diamond selling. Unlike the familiar developmental narrative tracking the protagonist's emergence into self-actualization (from status-to-contract in Maine's terms), the narrative action in *The Return of the Native* does not document Clym's process to individuate himself from his blood relatives and fellow heath-dwellers. We learn retrospectively that Clym was precocious as a child, leading him to pursue a job as a shop-man jeweller in the nearby coastal town of Budmouth, then London, and then finally Paris. The novel deviates from the bildungsroman, instead, documenting Clym's attempts to reassimilate into his native culture. His desire to open a school for his people, his marriage to heath-bound Eustacia, and his turn to furze-cutting on the heath signal his desire to reinsert himself into the kinship ties of his native place. But these attempts to rebuild his ties with his community are nothing short of a Sisyphean task.

On the eve of Clym's arrival from the Paris metropole, in a scene that narrates his disruption of the developmental order of status-to-contract from the perspective of those who stayed in Egdon Heath, the heath-dwellers speculate that Clym has "become a real perusing man, with the strangest notions about things."<sup>61</sup> To them, life in Paris has turned Clym into someone they do not recognize, a disembodied "perusing man" with an identity made up of "the strangest notions." Eustacia's father, known as the 'Captain', laments Clym's break from the native community, his transition into cultural difference: "That lad ought never to have left home. His

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<sup>61</sup> Hardy, *The Return of the Native*, 106.

father's occupation would have suited him best, and the boy should have followed on. I don't believe in these new moves in families."<sup>62</sup> (106). The Captain grounds his critique of Clym's departure in his own avowal of patrilineal inheritance, the counterpart to the kinship bonds Maine associates with the village-communities of ancient societies. "[T]hese new moves in families," the movement of travel and displacement evince cultural difference between Clym and the heath-dwellers. Humphrey, one of the furze-cutters, elaborates on the political distinction of this cultural difference: "[W]e who have stayed home shall seem no more than scroff in his [Clym's] eyes."<sup>63</sup> Here, the use of the Wessex dialect word 'scroff', meaning leftovers or bits and pieces, amplifies the colonial association between being native and being an inferior inhabitant, especially in the context of imperial conquest.<sup>64</sup> These early speculations anticipate the difficulty Clym will have "going back" to his culture. They see him as a foreigner.

The combined logics of gradual development, cultural difference, and the colonial binary of us/them provide structure to the anthropological origins of Clym's epistemological standpoint. In the chapter titled "Fasincation," the narrator confirms Clym's role in the anthropological equation:

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<sup>62</sup> Hardy, 106.

<sup>63</sup> Hardy, 107.

<sup>64</sup> Phillip Mallet defines Hardy's uses of the word 'scroff' as "scraps of peat or wood, hence anything worthless"; See Hardy, *The Return of the Native*, ed. Phillip Mallett (New York and London: W. W. Norton & Company Edition, 2006), 95. Raymond William's entry to the word "native" is "[t]hrough the particular social usage became obsolete, the negative use of native to describe the inferior inhabitants of a place subjected to alien political power or conquest, or even of a place visited or observed from some supposedly superior standpoint." See *Keywords: A Vocabulary of Culture and Society* (Oxford: Oxford University Press, 2015 [1976]), 161.

Hence, when his name was casually mentioned by neighboring yeomen, the listener said, “Ah, Clym Yeobright: what is he doing now?” When the instinctive question about a person is, What is he doing? it is felt that he will not be found to be, like most of us, doing nothing in particular.

There is an indefinite sense that he must be invading some region of singularity, good or bad.<sup>65</sup>

The spatio-temporal contrast between Clym “doing” something “now” and “most of us” who “d[o] nothing in particular” is an elemental feature of anthropological approach. The principle here, as Arjun Appadurai put it, involves the implicit definition of ‘natives’ as people “in one place [...] somehow incarcerated or confined” there, whereas “explorers, administrators, missionaries, and eventually anthropologists [...] are the movers, the seers, the knowers.”<sup>66</sup> That the narrator aligns Clym’s mobility with the action of “invading,” makes this connotation all the more explicit, but the earlier mention of “yeomen”, along with “name”, signals towards the “indefinite sense” of Clym’s revised relationship to his native spot, embodied in the etymological network of his full name, Clement Yeobright. The name ‘Clement’ means the state of being mild and humane in the exercise of power and authority; he is called “Clym” which phonetically sounds like “clime,” the archaic word for “climate”, referring to a region’s specific environmental conditions such as the weather, or ‘climb’, which can mean *cleave* or *cling*, “to raise oneself by grasping or clinging”. Clym’s name invokes the inseparability of his attachments to Egdon Heath. ‘Yeoman’, sharing the same prefix of ‘Yeobright’, refers to a farmer or laborer

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<sup>65</sup> Hardy, *The Return of the Native*, 165-166.

<sup>66</sup> Arjun Appadurai, “Putting Hierarchy in its Place,” 37.

of the land, derived from middle English ‘younger man’ or ‘mediocres homines’, according to the *OED*.

“Yeobright loved his kind,” we are told at the opening of the chapter where Clym decides to stay in Egdon Heath. But his feelings are not necessarily reciprocated. To his fellow countrymen, Clym has become an outsider since his return from Paris. The narrator informs the reader that Clym “had not been at home many days before a great curiosity as to why he stayed on so long began to arise in the heath.”<sup>67</sup> His “kind” no longer perceives him as one of their own, a native who stays. To them, he belongs elsewhere. During a conversation with Clym, one of the heath-dwellers, Fairway, asks him why he is still in Egdon: “We were wondering what could keep you home here mollyhorning about when you have made such a world-wide name for yourself in nick-nack trade—now that’s the truth o’ t.”<sup>68</sup> When he tells the ensemble his plans to “follow some rational occupation among the people I know best and to whom I could be of most use,” they remain unconvinced.<sup>69</sup> When Clym leaves them, an unnamed heath-dweller says, “Tis good-hearted of the young man...but for my part I think he had better mind his business.”<sup>70</sup> Even though Clym desires reconnection with his kin and land, the inhabitants of Egdon Heath do not feel the same way about him. His education and his lived experience abroad have changed his ‘native’ status. Instead, they view him as an outsider, someone who should leave and “mind his business”.

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<sup>67</sup> Hardy, 167.

<sup>68</sup> Hardy, 168.

<sup>69</sup> Hardy, 168.

<sup>70</sup> Hardy, 169.

## Disrupting Status-to-Contract

Readers of *The Return of the Native* will remember that Hardy locates the customary traditions of the inhabitants of Egdon Heath as a central indicator of its dying rural community. The midwinter bonfires, the Mummers' play at Christmas, the midsummer village dances, and the Maypole celebration are traditions Hardy underscores as survivals of a much older pagan culture. But these rituals are not ornamental to the novel's plot but decisive moments that advance it.<sup>71</sup> The Mummers' play, for example, is the site where Eustacia and Clym meet for the first time, the beginning of their tragic romance. As the actors rehearse the play for the upcoming Christmas holiday, Hardy's narrator uses anthropological insight to give context to the metropolitan reader:

A traditional pastime is to be distinguished from a mere revival in no more striking a feature than this, that while in the revival all is excitement and fervor, the survival is carried out with a stolidity and absence of stir which sets one wondering why a thing that is done so perfunctorily should be kept up at all. Like Balaam and other unwilling prophets, the agents seem moved by an inner compulsion to say and do their allotted parts whether they will or no. This unweeting manner of performance is the true ring by which,

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<sup>71</sup> In an article on the play adaptation of *The Return of the Native* Hardy wrote, "Thus the mumming is not an adventitious performance pitched into the middle of the play and suspending its action. On the contrary, the plot of the drama is directly advanced. The mummers are to go through their ancient masque precisely as it was done in Dorset and elsewhere in England 70 or 80 years ago." Quoted in *Thomas Hardy's Public Voice: The Essays, Speeches, and Miscellaneous Prose* ed. Michael Millgate (Oxford: Clarendon Press, 2001), 404.

in this refurbishing age, a fossilized survival may be known from a spurious reproduction.<sup>72</sup>

Michael Zeitler has written about the connections between Hardy's anthropological thinking in *The Return of the Native* and E. B. Tylor's *Primitive Culture*.<sup>73</sup> Zeitler explains that Hardy's treatment of primitive folk ritual borrows from contemporary anthropological interpretations, especially Tylor's distinction between the "survival" and "revival" of ritual origins.<sup>74</sup> Here, Hardy's narrator utilizes the sight of the participant-observer, transcoding the ritual into knowledge for the reader. At the same time, Hardy is also drawing attention to the continuing importance of this ancient ritual. As a survival of custom or "status", it is also still integral to Egdon Heath's culture, as suggested by the plot's advancement. Unlike Maine, Hardy is pointing to the impossibility of a radical break between "status and contract."

The final section of the novel titled 'Aftercourses' begins with the villagers' preparations of the May-pole Day, a ritual celebration taking place on the first day in May involving folk dance performed around a pole adorned in flowers and hung with ribbons.<sup>75</sup> The novel emphasizes Maypole, and the people who participate in its celebrations, as phenomena increasingly out of joint with Egdon Heath's ongoing modernization. This disjuncture is detailed when Venn Diggory, no longer a reddleman, visits the recently widowed Thomasin to ask her permission on behalf of the villagers if they can place a pole near her home: "Tis Maypole-day is

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<sup>72</sup> Hardy, 120.

<sup>73</sup> Michael Zeitler, *Representations of Culture: Thomas Hardy's Wessex & Victorian Anthropology* (New York: Peter Lang, 2007), 72-95.

<sup>74</sup> Zeitler, *Representations of Culture*, 87.

<sup>75</sup> *Britannica Academic*, s.v. "Maypole dance," accessed July 2, 2023, <https://academic-eb-com.proxy.uchicago.edu/levels/collegiate/article/Maypole-dance/51618>.

to-morrow, and the Shadwater folk have clubbed with a few of your neighbors here to have one [a pole] just outside your palings in the heath [...] I said to him [Fairway] that before we put up the pole it would be as well to ask Mrs. Wildeve.”<sup>76</sup> In this moment, Hardy transcribes Maine’s status-to-contract formulation by bringing the Maypole event into the realm of private property, custom and contract, respectively. Nathan Hensley has shown how George Eliot in *The Mill on the Floss* uses Maine’s status-to-contract model to narrate the exact moment that modernity arrives in the countryside, the “arrival of a world in which autonomous agents are able to discuss, not brawl, and contract, not enslave.”<sup>77</sup> I’m arguing that Hardy uses Maine’s formulation to point out Maine’s limitations, specifically the rigidity the categories status and contract. *The Return of the Native* notes the gradualism of social change, not its abrupt transition, as Maine’s comparativism implies.

### Ending Inheritance

The reading of *The Return of the Native* I have offered draws attention to the ways in which Hardy connects the figure of the participant-observer and the space-time imaginary of historical models of civilizational development to the wider practices of British imperialism, specifically to the phase of Britain’s indirect rule. By combining observational detachment and immediate engagement in Clym’s character, Hardy demonstrates that the participant-observer relies on a hierarchy of difference that undermines Clym’s ability to return to Egdon Heath as a “native.” The critical distance between Clym and his kin is the result of a cultural difference acquired through class mobility. Furthermore, the space-time imaginary of Hardy’s novel

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<sup>76</sup> Hardy, 369.

<sup>77</sup> Hensley, *Forms of Empire*, 59.

ultimately critiques the comparativism that characterizes Maine's study of ancient and modern societies. Maine's status-to-contract formulation implies a radical break from old to new, ancient to modern, in the path towards civilization. *The Return of the Native* questions this universal structure of civilizational development.

In last two chapters of this dissertation, I have shown how the novel's recourse into structures of the family and inheritance helps manage empire abroad in its civilizational narrative of the English nation. *Felix Holt*'s legal-inheritance plot casts a future where the concept 'citizen' is constructed along white lines of descent, interrupting the process in which a racialized and "uncivilized" majority may one day inherit the English nation. *The Moonstone* uses the occasion of a family's cursed inheritance to contemplate the production of and future livelihood of colonialist interpretations of history. But in *The Return of the Native* family and inheritance are not cast into a colonial future; instead, Hardy shows how the civilizational logic of the nation's past and present has run its course, amounting to irreparable loss. Less than halfway into the novel, we are told that "[i]n Clym Yeobright's face could be dimly seen the typical countenance of the future."<sup>78</sup> But by the end of the novel, Clym is a childless widower who is neither native nor stranger to Egdon Heath, "for the story of his life had become generally known."<sup>79</sup> In this way, Hardy revises Maine's comparative method to suggest that the models of civilizational development no longer hold the promise of future national prosperity.

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<sup>78</sup> Hardy, 165.

<sup>79</sup> Hardy, 390.

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