

2010. Perhaps the similarities and differences between these two books are a testament to the remarkably esteemed status that Ginsburg has attained in both the rarefied world of elite law, as well as among the populus that is subject to it.

## Reference

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*Opposing the Rule of Law: How Myanmar's Courts Make Law and Order*. By Nick Cheesman. Cambridge: Cambridge University Press, 2015. 338 pp. \$99.00 hardback.

Reviewed by Jothie Rajah, American Bar Foundation

*Opposing the Rule of Law* enters the complexities of law, politics, and the social in Myanmar through a study of criminal courts. Drawing on Nonet and Selznick (1978), Cheesman explains this point of entry, “In a politically repressive setting, criminal cases are the representative mode of legal authority. In the exercise of control over the body of the accused we find the basic elements for the exercise of control over the body politic” (p. 11).

Cheesman explores Myanmar’s criminal courts, not as contained and simplistic arenas of adjudication, but as sites of “interaction . . . tell[ing] a story of policemen, prosecutors, lawyers, complainants, and defendants . . . a study of courts’ personae, of courts’ representations of a larger political order, and of courts as spaces for political language and practice” (p. 10). The meanings, actors, and institutions relating to two opposing concepts – law and order, and rule of law – are carefully traced. From British colonial rule (Chapter 2), through the subsequent postcolonial regimes (Chapters 3–8), the book details both repressive modes of legal authority, and the remarkable human resistance and resilience that inform the story of how Myanmar’s courts make law and order.

*Opposing the Rule of Law* makes a significant twofold contribution to scholarship. This book “constitutes the first serious attempt for half a century to situate Myanmar’s courts in its politics” (p. 12). In the process, Cheesman documents much that has previously not been documented, and often, much that has not even been *known* beyond small circles, even within Myanmar. The value of rendering

legible that which has been lost, obscured, or inaccessible to a wider audience because of our lack of literacy in Burmese, cannot be understated. Perceived through the lens of recent scholarship on the relationship between law and record – Cornelia Vismann’s *Files* (2008), and Renisa Mawani’s theorizing on law as archive (2012) for example – this book’s rich, ethnographic documenting of histories, politics, and interactions will surely reverberate in many ways well into the future.

A second major contribution lies in Cheesman’s theorizing on the contested category of “rule of law.” Rather than reproduce the binary, linear thinking inherent to terms like rule *by* law, Cheesman exposes – and repairs – a troubling conceptual weakness in rule of law scholarship. Where rule of law is impoverished and characterized as rule of man or rule *by* law, he explains, there is a reproduction of conceptual symmetry to rule of law because these terms, located on a continuum with rule of law, *refer* to rule of law for their content. Whichever way you look at it, rule of man and rule *by* law are conceived of as rule of law inadequacy. As a consequence of this conceptual weakness, scholarly analysis typically “reduces rule-of-law questions to empirical accounts of how law serves instrumental ends. By contrast, law and order *is* a political ideal opposed to the rule of law. It has its own contents, which are asymmetrical to the rule of law. Its asymmetry makes it a useful concept for study of the rule of law through juxtaposition” (p. 17).

Some of the most compelling content of this monograph is its detailing of the ways in which ordinary people – often already marginalized, rural populations – remake the meaning of citizenship by speaking to, and for, the rights-based claims of rule of law (Chapter 8). For these populations, rule of law is “not a conservative doctrine but a radical one: a doctrine going to the . . . root of political power . . . fundamental[ly] challeng[ing] how power has been and continues to be exercised” (p. 263).

In Chapter 8, for example, Cheesman enters these stories of rule of law radicalism by following the thread that is “practices of complaint against government officials because complaints of this sort are the most revealing politically” (p. 227). The complaints reveal “a lexicon through which people advocate for the rule of law: a lexicon of the citizen as bearer, and wielder, of rights” (p. 231). An appreciation of context augments our appreciation of the radicalism at work. Cheesman explains, “In a small town or village, state agencies have effective control over practically every part of a person’s life. Officials get to know one another professionally and personally, and they do one another favors. Pushing complaints too hard in one place can cause push-back from another . . . Officials . . . use the coercive instruments of the state at the local level to wear down a complainant who cannot afford, financially or emotionally, for a long time” (p. 239).

This is by no means a linear trajectory of hope, optimism, and empowered citizens. There are also sobering accounts of the range of ways in which local authorities collaborate, deploy coercion, and file counter-complaints – often in the form of criminal charges – to punish and deter complainants. There are also accounts of shocking brutality alongside the bureaucracy and politics of complaint.

Alongside the brutality the book documents – and it is such an important thing that it does place on record judicial torture, detention without trial in quite horrific conditions, and the brutalizing of peaceful demonstrators – the book also tracks and highlights astonishing stories of people standing up for themselves and their communities; resisting the law and order paradigm of conditional privileges to assert rights, and claim justice.

In taking what animates Myanmar's criminal courts seriously, it is not just that we learn about Myanmar as a complex and paradigmatic case of the asymmetrical relations between opposing concepts, we are also supplied with a robust intellectual scaffolding through which we might (hopefully) spot some conceptual blind spots informing analysis of sociolegal ideals and categories in our own projects.

*Opposing Rule of Law* is beautifully written. The aesthetic sensitivity of the writing becomes a worthy platform for the acute and compelling analysis, the rigorous engagements with critical theory, and the thorough appreciation of context and relational dynamics grounded in ethnography. This important monograph will be invaluable to scholars in a range of fields, including law, authoritarianism, postcoloniality, military regimes, Southeast Asia, and ethnographies on rule of law.

## References

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