

The Legal System, Public Bureaucracy, and Political Development

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A. W. Singham. The Hero and the Crowd in a Colonial Polity. New Haven: Yale University Press. 1968. \$10.00.

Very different assumptions guide the efforts of social scientists and comparative legal scholars interested in the development process. These assumptions form paradigms; the paradigms guide and structure research problem selection, choices of concepts to be used, and even the form and content of evidence held to be admissible. For instance, a political scientist may treat the legal system of a transitional society as the outgrowth or a function of cultural, social, economic, and political environment, but the legal scholar may not be comfortable with this wholly dependent placement of his analytic slice of “reality.” Social scientists increasingly accept basic aspects of the value system of science. This requires a concern for making generalizations which may be linked to theoretical constructs, and which are empirically testable in such a way as to allow intersubjective evaluation. Description, explanation, and prediction are typically cited as a social scientist’s aims. “Relevance” is a term we hear much of today, but unless a social scientist is content to ignore the imperatives of the value system of science, relevance must remain a fundamental, perhaps overriding, element in research problem selection and not a criterion invoked in the research process itself. The legal system is the primary organized method of approximating justice in society and all disputes contain, implicitly or explicitly, conflicting value premises which must be dealt with. The subject matter, and hence the traditions, out of which legal scholars operate differs

from that of the social scientist. A. Singham's work furnishes an opportunity to reflect on these considerations.

The political process is especially crucial for the implementation of much-needed social and economic change in transitional societies. Within the political process or bounding it, the legal system and the public bureaucracy are focal points which necessarily guide, i.e., promote or inhibit, change. It is now becoming clear that our views about the manifest and latent consequences of legal systems and public bureaucracies grafted onto colonial societies require substantial rethinking. The issue may be put rather starkly; political instability, defined narrowly in terms of illegal central political leadership transformation, inevitably follows in the wake of the attainment of political independence. It is this type of assertion, and not that of political stability, which should guide problem analysis in the development field. The difficulty is that in the newly independent societies, many traditional cultural value patterns which previously served to stitch the societal fabric have been fatally challenged by the forces of modernization. Ironically, the legal system and public bureaucracy borrowed from the imperial power actually contribute to erosion of the legitimacy of the national political institutions that emerge after independence.

No society exists without publicly codified (although not necessarily written) norms regarding behavior. Ideally, expectations about the objective meaning of justice, individual rights and responsibilities, and the like are sufficiently shared throughout the society; there is a high degree of agreement concerning the legitimacy of the legal system. Views about the public bureaucracy are similarly distributed and shared. For this to be the case, the life-chances of the members of the society must be similar enough so that one or more large groups in the society are not so disadvantaged that they have little realistic opportunity to share in the social-economic payoffs of that society. If such an imbalance occurs, social, economic, and eventually political instability will result—the severity of which corresponds to the size and resources of the protesting groups combined with the intensity of their dissatisfaction. In premodern societies—and historically these are relatively small units of population and geography—the legal system and the public bureaucracy are closely related to the social and cultural milieu. Indeed, legal and governmental structures may

be occasionally so closely related to the kinship system as to be almost identical with it. This degree of congruence is not the case in industrialized societies, and it is certainly not the case in transitional societies. In these latter societies, again particularly in the former colonial societies, the legal system and public bureaucracy function largely because of the monopoly of force enjoyed by all those associated with the imperial power. It is all the more confusing that the modern legal system and the public bureaucracy may coexist with premodern legal and governmental structures. In this instance there does not exist a sufficient degree of congruence between the social and cultural environment and these institutions.

Singham provides the most useful case study yet of the hazards accompanying the transfer of legal authority from the colonial authority to indigenous political leadership by way of a well-disciplined public bureaucracy armed with a legal code and procedures transferred from the imperial power. The author seized an opportunity to study the political crisis in Grenada, a small island in the Caribbean. In 1962, the colonial administrator found himself pitted against the leader of the new rural peasant-based political movement. Using a multilayered research methods and techniques strategy—e.g., interviews, participant observation, analysis of relevant social and economic characteristics of the island, and the historical reconstruction of events leading to the crisis—Singham persuasively develops the thesis that the colonial preparation for independence—i.e., the public bureaucracy and legislative system carefully nurtured and protected by representatives of the imperial power—does not bear its expected fruit, at least in the Grenada case. As the independence date nears, the imperial power (in this instance Britain) extends suffrage. It allows greater legislative participation relating to domestic politics, though ultimate authority continues to reside in the office of the governor. On the day of independence, the transfer of authority is smoothly effected and the new political institutions begin to perform efficiently. The British are thought to be particularly good at the business of establishing such governmental foundations. However, in Grenada this model will not do. We learn again from Singham that without actual exercise of political power, restraint in its use is unlikely to be learned; political instability is a result.

In Grenada the traditional value system has not provided a basis for a synthesis with the forces from the industrialized world. Treated as political and economic children for so many decades, the resulting frustration produces authoritarian authority patterns at every level, a situation not conducive to democratic self-government.

Singham is interested in the conditions leading to the political crisis of 1962 which resulted in the reassumption of internal political control by the colonial authority. He analyzes the tensions between a conservative public bureaucracy and a radical, change-oriented political leader. Those associated with the modern sector of the economy—the civil servants, the business interests, and the urban West Indian middle class—supported the status quo. However, in Grenada, as in many colonial societies, large numbers of people were disadvantaged by and effectively excluded from the relatively comfortable guarantees afforded by the existing governmental and legal structure. The peasants were excluded because they are economically dependent on monopolistic agricultural interests; they are typically functionally illiterate; they are geographically and psychologically distant from the major city, St. George. In short, the peasant is dominated or ignored by the central governmental structure. It should not be surprising that when a political figure begins to mobilize rural interests, active support for swift recognition of the legitimacy of their demands mounts. At best the existing governmental institutions and legal system are supportive of orderly measured change. Judges, lawyers, and bureaucrats are entirely convinced that measured orderly change is the *only* legitimate change mechanism. When representatives of mass-based interests take political power, they reject this view, and it is only a matter of time before contradictory assumptions and goals lead to vigorous clashes. The new elites demand radical change and do not rule out short-cuts, i.e., circumvention of troublesome procedures and laws.

Singham suggests that what might be called the “preparation for independence” model illustrated by the Grenada case needs considerable revision. Even with the warnings we have had, social scientists insist on talking about civil wars, political and economic disintegration, and the continual and increasing cycle of political leadership instability as “breakdowns,” pathologies, or abber-

rations. Of course, there is nothing wrong with holding the value that new nations will develop. But we must be equally willing to undertake research that assumes political disintegration to be an equally probable product of the forces of modernization. This must be done recognizing that the very vocabulary we work with is unduly biased toward development. One assumption, related to the legal system and public bureaucracy in particular, needs to be reevaluated. This is the convergence thesis which might be interpreted thus: industrialization inevitably brings about a narrowing of the range of alternative behaviors in all societies as they pass through the various stages of industrialization. Thus the traditional law-ways, status-obligations, and kinship bases of governmental, as well as private organizations, must give way to their modern counterparts. The accuracy of the thesis should be opened to cross-national comparison. Must bureaucracy and organization become mirror-images of the achievement-based, functionally specific models offered by scholars in the industrialized nations? The Japanese partially think not. Can justice defined minimally in terms of, say, equality before the law be maintained in societies undergoing rapid social and economic change like Grenada? Perhaps in transitional societies, justice is better served in the long run by temporarily suspending it. One may not agree with this proposition, but many elites in the new nations would earnestly propound it. Our challenge is to try to understand how, or whether, the legal system and public agencies might facilitate rapid political change as well as blunt it.