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978-1-107-48754-3 - Race, Religion, and Law in Colonial India: Trials of an Interracial Family
Chandra Mallampalli

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Introduction

In a crowded commercial neighborhood of the south Indian city of Bellary, there once stood a distillery owned and operated by a Tamil-speaking Protestant named Matthew Abraham. Matthew came from the low-ranking *paraiyar* community (one among many so-called untouchable groups). In 1820, he married a woman of Anglo-Portuguese descent, Charlotte Fox.¹ Since 1800, Bellary was under the rule of the English East India Company. So strategic was Bellary's location that the Company established a military cantonment in the northwest section of the city. During the 1830s, Matthew became wealthy by producing liquor and selling it to the troops. His younger brother Francis assisted him at the distillery and assumed its management after his death. For a time, the interracial couple, their two "half-caste" sons, Francis, and members of their extended family shared a common household and enjoyed a relatively affluent lifestyle under Company rule.

As they linked the worlds of liquor, Protestantism, and the army, the Abrahams made the most of their circumstances in colonial Bellary. Over the span of fifteen years, they acquired considerable wealth through their distillery business, a shop, and other investments. They conducted business with leading European mercantile firms of south India. By channeling funds through an international lending house, they financed the education

¹ Whereas Charlotte's father was English, her mother was most likely a descendant of a Portuguese father and an Indian mother. As a result, Charlotte technically belonged to Bellary's Eurasian community. During the early nineteenth century, such persons of mixed racial descent were referred to as "East Indians." Even though their ancestry was mixed, East Indians of Bellary strongly identified themselves with the European side of their ancestry and distanced themselves from "native" society.

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of their eldest son, Charles Henry, at Queens' College Cambridge. The family also owned six bungalows, which they rented to colonial officers or used to host family parties and balls. They used profits from their distillery and rental income to invest in the sale of other commodities such as cotton, wax, and military surplus items.

On July 10, 1842, after having accumulated assets valued at more than 300,000 rupees, Matthew died without a will. Thereafter, Charlotte and Francis became embroiled in a bitter contest over family assets. Charlotte believed that she had become the new head of the household and that she and her two sons were entitled under English law to Matthew's wealth. Francis was merely to be paid as a hired agent. Francis, however, argued that he and Matthew, as persons of "pure native blood," had functioned as undivided brothers of a Hindu family.² According to Hindu law, he had become head of the household and would share family assets with Charlotte's two sons. Charlotte, he claimed, was entitled only to maintenance in the family home.

A series of confrontations with Francis led Charlotte in May 1854 to file suit in the Bellary District Court.³ Her two sons, Charles Henry and Daniel Vincent, were listed as co-plaintiffs. The ensuing court case, *Abraham v. Abraham*, went all the way to the Judicial Committee of London's Privy Council, the final court of appeals for cases originating within the colonies. On June 13, 1863, Lord Kingsdown of the Judicial Committee issued a judgment based on "justice, equity and good conscience." Charlotte and her son Daniel received all of the property that Matthew had acquired during his lifetime, but had to pay Francis (for his labor) half the profits of the distillery since the time of Matthew's death. In his famous decree, Kingsdown expounded on issues of religious conversion, cultural change, and family law.

This book describes how a family's complex social experiences were simplified in court. In their household and business dealings, the Abrahams moved seamlessly between multiple social spaces. They bridged untouchables and Eurasians, Hindu, Muslim, and Christian merchants, and British and Princely ruled India. In court, however, their textured lives

² According to one model of the Hindu undivided family, all male members share ancestral property jointly. Upon the death of the head of the household, the common stock is divided equally between the men, whereas daughters (if unmarried) and wives are entitled to maintenance in the family home. See John Dawson Mayne, *A Treatise on Hindu Law and Usage* (Madras: Higginbotham and Co., 1906), 6–9.

³ By the time of the Privy Council's decree, Charles had died, leaving Charlotte and Daniel as co-plaintiffs.

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were reduced to a contest between racial and religious identities. The legal battle between Charlotte and Francis hinged on whether English or Hindu law should apply to the family. To determine their law, the court instructed them to prove their customs – were they English or “Hindu” in their daily habits and ways of relating to each other?⁴

It was precisely in this moment of having to produce a fixed identity, I argue, that their lives in Bellary entered the story of the British Empire in India. Unlike accounts of transgressive interraciality found within other contexts, I present the Abraham household as a rather normal feature of life in early colonial Bellary. It was the family’s experience of going to court that ordered their lives in new, imperial ways. Courts of law, as Lauren Benton has shown, mediated imperial understandings of racial and religious difference.⁵ Categories through which the British organized India and the world provided the Abrahams with their idiom of self-fashioning. The family’s encounter with colonial modernity consisted of this burden to locate itself within a civilizational framework – whether Hindu, Christian, or Muslim – instituted by the courts.⁶ Their story accesses a wider experience of modernity, where broad categories of identity conceal day-to-day experiences of mixture.

Historians of many world areas have demonstrated the value of court cases for examining complex lives.⁷ Court cases amass details about the attitudes, bodily practices, vocations, and social behaviors of litigants and

⁴ In the context of this court case, the meaning of the term “Hindu” is itself contested. At one level, it refers generically to anyone or anything that is native to the Indian subcontinent. It may also refer to someone’s racial stock; that is, a person of pure “Hindoo” or “native” blood or ancestry. By this definition, one could be a Hindu Christian or a Hindu Muslim. At other points in the case, however, the term refers to one who belongs to or practices the Hindu religion.

⁵ Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History 1400–1900* (Cambridge: Cambridge University Press, 2002).

⁶ Those who laid the foundation of India’s legal system brought what Lloyd and Susanne Rudolph call a “civilizational eye” to civil disputes. Lloyd and Susanne Rudolph, “Living with Difference in India: Legal Pluralism and Legal Universalism in Historical Context,” in Gerald James Larson, *Religion and Personal Law in Secular India: A Call to Judgment* (Bloomington: Indiana University Press, 2001), 39.

⁷ See, for instance, Carlo Ginzburg, *The Cheese and the Worms: The Cosmos of a Sixteenth-Century Miller*, translated by John and Anne Tedeschi (Baltimore: Johns Hopkins University Press, 1980), Natalie Zemon Davis, *The Return of Martin Guerre* (Cambridge, MA: Harvard University Press, 1983), David W. Cohen and E. S. Atieno Odhiambo, *Burying SM: The Politics of Knowledge and the Sociology of Power* (Portsmouth, NH: Heinemann, 1992), and Partha Chatterjee, *A Princely Impostor? The Strange and Universal History of the Kumar of Bhawal* (Princeton, NJ: Princeton University Press, 2002).

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the society around them. In this respect, they reveal what Arjun Appadurai calls “the production of locality.”⁸ They also illustrate how local details are scrutinized according to priorities of state institutions or other structures of power. A single case creates a public record of lives while documenting how those lives were molded or refashioned through argumentation. As they reveal the interplay of normative concepts and everyday life (of law and fact), the evidence and proceedings of court cases can fuel the larger claims of social history. The *Abraham* case is significant not only for its incisive interrogation of identities, but also for how it records the voices and experiences of lower-class people. The rich ethnography produced in the case therefore serves two purposes in this book: It captures the lives of the Abrahams within their local milieu and reveals how, in court, their lives were linked to imperial flows of knowledge.

Abraham v. Abraham (1854–1863) was tried during a critical period of transition in British India. In 1857, sepoys (Indian soldiers) in various parts of north India rebelled against their British superiors in a momentous challenge to Company rule. This event resulted in important changes in imperial ideology and practice. Many had attributed the 1857 Rebellion to policies that offended the cultural and religious feelings of Indians. Bullet cartridges coated with animal fat violated convictions of Hindu and Muslim sepoys. Beyond this conventional explanation are the roles of Anglicist and Evangelical influences in preceding years, which are believed to have fueled anti-British sentiments.⁹ These culturalist explanations prompted colonial administrators to adopt a far more cautious and conservative approach to governing Indian society. When in 1858 the British Crown assumed direct control over Indian territories, Queen Victoria issued her Proclamation, which declared the Crown’s strict commitment to religious neutrality and noninterference.

⁸ Arjun Appadurai, *Modernity at Large: Cultural Dimensions of Globalization* (Minneapolis: University of Minnesota Press, 1996), 178–99.

⁹ The Anglicists were those who promoted state-sponsored, English medium education in British India. Their opponents, the Orientalists, promoted the study of classical and vernacular languages as mediums of instruction. For an account of the confrontation between these views, see David Kopf, *Orientalism and the Bengal Renaissance: The Dynamics of Indian Modernization, 1773–1835* (Berkeley: University of California Press, 1969). Evangelicals were those Protestants who criticized the routine and ritual of state churches back in Europe and emphasized the importance of a conversion experience for being Christian. They preached their message to members of other religions, often through direct assaults on the teachings of their sacred texts. Kopf’s study discusses the era of “Evangelical Anti-Hinduism” in India. For a broader study, see David Bebbington, *Evangelicalism in Modern Britain: A History from the 1730s to the 1980s* (London: Unwin Hyman, 1989).

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Situated at the transition from East India Company to Crown rule, *Abraham v. Abraham* showcases two distinct ideologies of empire, namely its civilizing mission and its ordering of difference.¹⁰ The civilizing mission has long consumed those who write about colonial Africa or Asia.¹¹ It evokes images of European powers bringing their knowledge, religion, and customs to the “darker continents” and of “natives” rising in the world by embracing them. Colonial rulers legitimated their dominance of more backward societies by contributing to their moral and material progress and giving natives opportunities to become “more like us.”¹²

More recent literature stresses the British Empire’s ordering of difference. This pertained not only to qualities that separated Europeans from non-Europeans, but also to categorical differences between non-Europeans. The more conservative outlook of the post-Rebellion era gave rise to an imperial multiculturalism, a policy of classifying colonial subjects according to race, religion, caste, or ethnicity with no intention of “turning them white.”¹³ In spite of being tied to notions of noninterference,

¹⁰ Both are discussed in Thomas Metcalf, *Ideologies of the Raj* (Cambridge: Cambridge University Press, 1995).

¹¹ Pervasive use of Chinua Achebe’s *Things Fall Apart* (1954) and Rudyard Kipling’s poem “White Man’s Burden” across any college curriculum illustrates the lasting purchase of the assimilation model of empire. T. B. Macaulay’s heavily anthologized *Minute on Education* (1835) captures the spirit of the civilizing mission by envisioning “a class of persons, Indian in blood and color, but English in taste, in opinion, in morals and in intellect.” Thomas Babington Macaulay, “Minute of 2 February 1835 on Indian Education,” in *Macaulay, Prose and Poetry*, selected by G. M. Young (Cambridge, MA: Harvard University Press, 1957), 729.

¹² For scholarly treatment of the assimilation model in South Asia, see Gauri Viswanathan, *Masks of Conquest: Literary Study and British Rule in India* (New York: Columbia University Press, 1989), Harald Fischer-Tiné and Michael Mann (eds.), *Colonialism as Civilizing Mission: Cultural Ideology in British India* (London: Anthem Press, 2004), and Lizzie Collingham, *Imperial Bodies: The Physical Experience of the Raj, 1800–1947* (Malden, MA: Blackwell, 2001).

¹³ Important studies of indirect rule in various parts of the empire illustrate the late empire’s preferred path of recognizing dominant traditions of the colonized. In contrast to the policy of assimilation, indirect rule identified the “natural leaders” of indigenous societies and allowed them to rule through what were deemed to be traditional means. Sir Fredrick Lugard developed his views on indirect rule in Nigeria in *The Dual Mandate in British Tropical Africa* (London: W. Blackwood and Sons, 1922). For a classic study of the British patronage of the Malay sultans, see Rupert Emerson, *Malaysia: A Study of Direct and Indirect Rule* (Kuala Lumpur: University of Malaya Press, 1964). For more recent works, see Mahmud Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton, NJ: Princeton University Press, 1996) and J. C. Myers, *Indirect Rule in South Africa: Tradition, Modernity and the Costuming of Political Power* (Rochester, NY: University of Rochester Press, 2008). For a more general

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this policy, like the civilizing mission, restructured and transformed the lives of colonial subjects. Administrative schemes of governance simplified populations through their classifications. Broad categories of identity privileged some classes while marginalizing individuals or families who did not fit neatly into any of them. The implementation of Hindu, Muslim, or English personal law was part of this attempt to conserve or tolerate practices grouped according to religion.¹⁴ By presuming that laws could be applied along such lines, courts played a key role in institutionalizing difference.

In a recent study, Karuna Mantena describes this move toward conservatism in terms of a “crisis of liberal imperialism.” Events of 1857 convinced the British that Indian subjects could not be civilized and had to be left to observe their own cultural practices. But what exactly were these practices? To prevent another rebellion, colonial officials attempted to understand and contain the “unique, cultural logic” of native society through policies of noninterference and neutrality. If the native of pre-Rebellion India, Mantena observes, “was figured as a child amenable to education, conversion, and assimilation, the native of late empire was construed as tenaciously bound to custom.”¹⁵ The moral and transformative vision of empire extolled by English Utilitarians and Evangelicals

treatment of the emergence of plural societies across the British Empire, see P. J. Marshall (ed.), *The Cambridge Illustrated History of the British Empire* (Cambridge: Cambridge University Press, 1996). Nicolas Dirks also has drawn attention to the heightened preoccupation with caste customs by British officials after the Rebellion. The attempt to secure the raj from another rebellion led officials to amass information concerning the castes and tribes of India. See Dirks, *Castes of Mind: Colonialism and the Making of Modern India* (Princeton, NJ: Princeton University Press, 2001).

¹⁴ “Personal law” includes laws of marriage, inheritance, adoption and other family matters, which, in British India, varied according to religion. The Company’s raj had implemented this scheme of personal law long before the Rebellion. Reforms of the 1860s, however, resulted in a more rigid and bureaucratic implementation of personal laws. I discuss these developments in “Escaping the Grip of Personal Law in Colonial India: Proving Custom, Negotiating Hindu-ness,” *Law and History Review*, Vol. 28, No. 4 (2010), 1043–65.

¹⁵ Karuna Mantena, *Alibis of Empire: Henry Maine and the Ends of Liberal Imperialism* (Ranikhet: Permanent Black, 2010), 5. Mantena’s book features the prominent role of Sir Henry Maine, law member of the Governor General’s Council, who saw India as consisting of coherent village societies, governed by custom. Maine’s emphasis on the village society is clearly a development of the “late empire,” but an impulse toward conservatism and cultural preservation can be noted in decades preceding 1857 as well. The Company constantly grappled with the tension between its civilizing imperative and its commitments to religious neutrality. William Bentinck’s decision to abolish sati in 1829, as Lata Mani has shown, sprang less from the moral impulses of liberal imperialism than from anxieties about the proper exercise of religious toleration. See Lata Mani, *Contentious Traditions: The Debate on Sati in Colonial India* (Berkeley: University of California Press, 1998), 13–15.

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thus gave way to policies that conceived of Indian society in terms of coherent cultural wholes, each operating according to its own habits and customs.¹⁶

Against a growing imperial focus on custom, *Abraham v. Abraham* became a contest over the *habitus* of Matthew Abraham. Pierre Bourdieu describes *habitus* as “embodied history, internalized as a second nature and so forgotten as history.”¹⁷ Matthew’s *habitus* is his way of being in the world, his embodied practices, dispositions, social demeanor and affinities, and ways of conducting himself. These would have been deposited into his unconscious through the workings of power structures (including colonial authority, caste hierarchies, and the role of church bodies), work experiences, family influences, and his social location as a *paraiyar*. Matthew’s *habitus* made him a product of a structured past, which established a framework for his conscious choices.¹⁸ At issue in the case was whether Matthew instinctively betrayed the *habitus* of an East Indian or of a native. When he engaged in commerce, did he embody a Protestant work ethic or the skills of an Indian bazaar merchant? When he consumed liquor, did he do so as a Tamil *paraiyar* or as someone acculturated into colonial society? As much as the court case revolved around such binaries, this book critiques its project of constructing Matthew’s *habitus* as a cultural essence, locating him within the orbit of one law or another.

An important aspect of the case, for instance, concerns Matthew’s transformation from a *paraiyar* untouchable into a person of high social status. Charlotte and her district court pleader, Vasudeva Naidu, portrayed this change in terms of his assimilation into European culture.¹⁹

¹⁶ Karuna Mantena, *Alibis of Empire*, 85.

¹⁷ Pierre Bourdieu, *The Logic of Practice* (Stanford: Stanford University Press, 1980), 56.

¹⁸ Bourdieu’s notion of *habitus* strikes a balance between regarding persons as governed by mechanistic predictability and by complete freedom and spontaneity: “As an acquired system of generative schemes, the *habitus* makes possible the free production of all the thoughts, perceptions and actions inherent in the particular conditions of its production – and only those. Through the *habitus*, the structure of which it is the product governs practice, not along the paths of a mechanical determinism, but within the constraints and limits initially set on its inventions.” *ibid.*, 55.

¹⁹ They invoked what Gauri Viswanathan calls “conversion as assimilation,” a tendency to presume that adopting Christianity entailed a comprehensive change of habits and customs. This accurately captures the case of Charlotte Abraham. Viswanathan questions whether conversion as assimilation was actually sought out by colonial officials. More often, conversion under the British raj amounted to exile and displacement from community. See Viswanathan, *Outside the Fold: Conversion, Modernity and Belief* (Princeton, NJ: Princeton University Press, 1998), 87–90.

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They invoked a classical imperial paradigm: that of an Indian from a lower social class rising in the world by converting to Protestantism, adopting Western clothes, and marrying an East Indian woman (the cliché, “eating beef, drinking liquor, and donning the Western dress” is also applied to such persons). To establish Matthew’s location within East Indian society (and the suitability of English law), Naidu drew sharp distinctions between East Indian customs and those of the native society Matthew had supposedly abandoned.

To make his case for Hindu law, Francis stressed the unchanging aspects of race and caste in defining his and Matthew’s identity. He and his pleader, J. S. Shrieves, posited an identity that was fixed at birth irrespective of cultural changes that may have occurred during their lifetime. In spite of embracing many English customs and marrying East Indian women, the brothers remained bound to the inheritance practices of Hindu undivided families.

Both sides of this case produced caricatures of family identity, which concealed a far more porous and dynamic social tapestry. Pleaders in *Abraham v. Abraham* named a total of 271 witnesses. Deposing in English or in their mother tongues, butchers, washers, cooks, bricklayers, and others presented exhaustive details about the Abrahams and other cross-sections of Bellary’s society. Their testimonies form a valuable archive, recording social experiences of lower classes. A typical deposition would identify the caste, religion, occupation, and residence of a witness. This recorded identity, however, could not account for the transient social conditions in Bellary. A witness could assume many different occupations during a lifetime and would literally follow the army to various places to maintain a livelihood as a service provider. The shifting roles of these “camp followers” often defied the categories assigned to them in the court records.²⁰

This study moves within the conceptual terrain mapped by Mantena and other scholars of culture and imperialism in British India. Its main point of departure concerns the type of change being documented. While

²⁰ A typical deposition would identify many aspects of a witness’s identity: “Deposition of Defendant’s 15th witness, 11 September 1857. Ponapaty Devasagoyum Reddy, son of Chinnapa Reddy, caste Motatee Capoo, Christian, aged 64 years, a Reddy and Cultivator by occupation, and residing at Peramuttoo Yalaroo, Talook Anatapore, Zillah Bellary.” Their oral testimonies were accompanied by other kinds of evidence produced in the case. These include account books, family correspondence, *Abkari Contract* reports and letters of recommendation, and other sworn statements.

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Mantena's concerns are centered on a shift from early to late imperial policy and changing representations of Indian society, this book traces changes that occurred within the life of a single family. It documents their transition from being cross-culturally engaged through trade, intermarriage, and cohabitation to their encounter with the fixed alternatives of personal law.

The transition from “fuzzy” cultural boundaries of precolonial India to more formal classifications of subjects under British rule is a familiar trope in South Asian historiography. Religion-based personal laws, census categories, and other types of official classifications drew sharp distinctions between members of different “communities” who experienced far more interwoven relationships on the ground.²¹ This literature pays considerable attention to the evolution of Hindu, Muslim, and Sikh identities under British rule. Largely omitted are the unique dilemmas associated with “Native Christians” under the classification raj.

This omission is partly due to the fact that Protestant Christianity, especially its Evangelical variety, is widely associated with the civilizing mission and its logic of cultural assimilation. William Dalrymple, for instance, views Evangelical preaching as a key factor that ignited the 1857 Rebellion. Evangelicalism was a polarizing force that reversed an early cultural synthesis between English nabobs and their concubines, and Indian and British culture more broadly.²² Seen from this angle, Protestant converts enter the story of what went wrong with the British in India. A belief in the essentially Protestant personality of the raj and of Protestantism as marking the boundary between ruler and ruled easily

²¹ For example, see Gyanendra Pandey, *The Construction of Communalism in Colonial North India* (Oxford: Oxford University Press, 1990), Harjot Oberoi, *The Construction of Religious Boundaries: Culture, Identity and Diversity in the Sikh Tradition* (New Delhi: Oxford University Press, 1997), Sudipta Kaviraj, “Religion, Politics and Modernity,” in Upendra Baxi and Bhikhu Parekh (eds.), *Crisis and Change in Contemporary India* (New Delhi: Sage Publications, 1995), Laura D. Jenkins, *Identity and Identification in India: Defining the Disadvantaged* (London: RoutledgeCurzon, 2003), and Arjun Appadurai, “Number in the Colonial Imagination,” in Carol Appadurai Breckenridge and Peter van der Veer (eds.), *Orientalism and the Postcolonial Predicament: Perspectives on South Asia* (Philadelphia: University of Pennsylvania Press, 1993), 314–40.

²² William Dalrymple, *The Last Mughal: The Fall of a Dynasty, Delhi, 1857* (New York: Alfred A. Knopf, 2007), chapter 2. Dalrymple's romantic portrayal of the early Company relations to Indian society stands in contrast to other scholarship that highlights inequalities and violence tied to race and gender that pervades this period. See Durba Ghosh, *Sex and the Family in Colonial India: The Making of Empire* (Cambridge: Cambridge University Press, 2006) and Elizabeth Kolsky, *Colonial Justice in British India: White Violence and the Rule of Law* (Cambridge: Cambridge University Press, 2010).

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locates converts on the side of British rulers in terms of their culture, religion, and sympathies.²³

Instead of becoming brown *sahibs* who embraced the ways of the colonizer, the Abrahams eventually faced crises of identity shared by Hindus, Muslims, and other typecast colonial subjects. Early chapters of this book describe the complex social tissue lying beneath their Christian identity. I want to show how the family flourished in their business dealings not by “becoming white,” but by adapting themselves to Bellary’s unique social landscape. The discussion that follows moves us into messy details of this relatively unknown locality. Only by paying due attention to the vast scope of the family’s involvements can we fully appreciate how their lives were impacted by colonial law.

FROM CURRY POT TO SALAD BOWL

Discussions of immigration in North America often invoke images of the melting pot versus the salad bowl. Whereas the melting pot refers to a process of assimilation or “blending in,” the salad bowl implies a lasting retention by immigrants of their distinctive cultural characteristics. This book inverts the meanings of these images. It describes a condition of cultural mixture in Bellary – a curry pot – where residents absorbed many kinds of cultural influence, experienced shifting vocations and social networks, and functioned cross-culturally and interracially as a normal mode of being. This condition of mixture predated colonial rule and extended well into the years of the Company’s raj. The book then describes how a family’s place within this curry pot was radically reframed in a nine-year legal dispute. The salad bowl represents idealized distinctions between Hindu, Muslim, and Christian civilization mediated through the system of personal law. At issue are not the labels themselves, but how courts invested each with a coherent set of customs, prejudices, and behavioral norms. More than any model of assimilation, this artifice of difference is the most lasting legacy of empire.

The city of Bellary is located near the border of the current south Indian states of Karnataka and Andhra Pradesh. During the early colonial

²³ A highly nuanced discussion of ties between Christian missionaries and the British Empire in India is provided by Ian Copland in “Christianity as an Arm of Empire: The Ambiguous Case of India under the Company, c.1813–1858,” *The Historical Journal*, 49, 4 (2006), pp. 1025–54. Contrary to recent histories that dissociate Christianity and empire, Copland demonstrates a convergence of interests between missionaries and the state during the decades preceding the 1857 Rebellion, especially around the policy of English education.