



RESEARCH ARTICLE

# The spectre of Ma Phyu? Loyalty, competence, and the spatial dynamics of imperial administration in colonial Burma

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## Abstract

This article explores the spatial dynamics of imperial administration in colonial Burma through the lens of gender, bureaucracy, and frontier. Focusing on the story of Hugh Ernest McColl, a British administrative officer in Burma who struggled for promotion as a result of his marriage to a Burmese woman, the article sheds light on the spatial dynamics regarding loyalty, competence, and political priorities in the imperial administration of frontiers. Such spatial dynamics were most clearly manifested in the diverging attitudes between central authorities and local governments towards McColl's case. Drawing on archival sources and secondary literature that contextualize McColl's case within the broader textures of colonial governance, this article argues that McColl's case reveals the internal contradiction of the imperial administration, which saw a constant tension between the ideological imperatives of control and the practical demands of how to control. McColl's story is therefore a story of broader significance—of the inherent structural contradiction of colonial rule and its inability to overcome it.

**Keywords:** Burma; frontier; gender; bureaucracy; language

## Introduction

A spectre—the spectre of a Burmese woman—haunted the imperial administration of British colonial Burma.

Mandalay, 7 February 1917. Hugh Ernest McColl, a divisional judge in the Court of the Judicial Commissioner of Upper Burma, wrote an angry letter to Austen Chamberlain, secretary of state for India, and copied to Lord Chelmsford, viceroy and governor-general of India. In this seven-page typewritten letter, McColl furiously petitioned against the Government of India's decision to select a more junior person over him for a promotion to judge of the Chief Court in Lower Burma. He elaborated on his qualifications of 27 years in the Indian Civil Service (hereafter ICS) in Burma, and came to the conclusion that the only possible reason that he was overlooked for promotion

was his marriage to a Burmese wife 26 years ago. He strongly protested against this decision, and requested that he not be further debarred or superseded for promotion.<sup>1</sup>

On the surface, this story seems like just another instance of the colonial state's political aversion to interracial conjugality among colonial officers. However, what makes this story extraordinary is the long history surrounding McColl's case for over two decades and the sharply divergent opinions of the central and local governments about what to do with him. Between 1898 and 1902, the governments of Burma and India had hundreds of pages of correspondence regarding suspicions against McColl, then a low-ranking officer, due to his marriage. The Government of India insisted on harsh penalty and disqualification, while the Government of Burma displayed a much more lenient disposition, making an effort to cautiously ask the Government of India to mitigate the punishment without displeasing their superiors too much. This spatial dialectic between the central and the local regarding the priorities of imperial administration overshadowed McColl's entire career in Burma, until close to his death in 1924.

This article is a study of the spatial dynamics of British imperial administration in colonial Burma. Focusing on the protracted case of McColl, this article argues that spatial dynamics played a significant role in informing the political priorities of British imperial administration. The spatial distinction of Burma as a political frontier of British India had a tremendous impact on the administrative decision-making of the colonial state, at both central and local levels. The central government, insistent on imperial ideologies of control, demanded political loyalty as a top priority. The local government, faced with the everyday on-the-ground realities of governing, prioritized administrative utility and competence over other factors. For the central government, the Burma frontier was a distant space of indeterminacy and potential insurrection. For the local government, the Burma frontier was an immediate daily reality they were trying hard to comprehend and manage, with very limited knowledge or human resources. Here in the Burma frontier, a reified colonial discourse of difference encountered an unruly administrative terrain.

With this angle on the spatial dynamics of imperial administration, this article brings together three bodies of literature on colonial Burma and India: gender, bureaucracy, and frontier. The historiography on gender and empire has made important contributions to our understanding of colonial interracial conjugality. It demonstrates that such unions at the intersection of race, gender, and colonial differences were never simply 'private' domestic arrangements but always matters of remarkable political significance, informing the making of imperial culture itself.<sup>2</sup> Meanwhile, recent

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<sup>1</sup>Enclosure No. 4. Through the Judicial Commissioner, Upper Burma. His Honour the Lieutenant Governor of Burma, His Excellency the Viceroy and Governor General of India. To the Right Honorable Mr. Austen Chamberlain, Secretary of State for India. Dated, Mandalay the 7th February 1917'. In 'Memorial from Mr H E McColl, ICS, Senior Divisional Judge, Burma, as to his non-selection for appointments'. India Office Records, British Library (hereafter IOR) L/PJ/6/1499, File 3635.

<sup>2</sup>Ann Laura Stoler, 'Making empire respectable: The politics of race and sexual morality in 20th-century colonial cultures', *American Ethnologist*, vol. 16, no. 4, 1989, pp. 634–660; Ann Laura Stoler, 'Sexual affronts and racial frontiers: European identities and the cultural politics of exclusions in colonial Southeast Asia', *Comparative Studies in Society and History*, vol. 34, no. 3, 1992, pp. 514–551; Durba Ghosh, *Sex and the family in colonial India: The making of empire* (Cambridge: Cambridge University Press, 2006); Chie Ikeya,

studies of colonial bureaucracy in Burma have finally moved away from the long-standing 'rationalization' narrative, which claims that colonial rule replaced a more fractious, performative, and personalized Burmese administration with an increasingly rational colonial bureaucracy.<sup>3</sup> Focusing on the 'quotidian history of state power' of subordinate officials, scholars now suggest that in practice the colonial state in Burma was a porous and erratic one, 'dysfunctional, understaffed, and ridden by fraught personal conflicts', rather than a monolith of imperial ideology.<sup>4</sup>

It is here that a spatial perspective on Burmese history becomes important. For the British colonial state, after the conquest of Mandalay in 1885, Burma suddenly became a vast frontier of administrative lacuna that they had to fill.<sup>5</sup> Both interracial conjugality and colonial bureaucratic practices happened in this context of massive administrative expansion and political uncertainty. Recent scholarship on the frontiers of British India has suggested that the colonial state viewed frontier areas with imperatives of containment and pathologization, and saw them as spaces of exception and danger.<sup>6</sup> In addition to such insights, this article contends that it is also important

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'Colonial intimacies in comparative perspective: Inter-marriage, law and cultural difference in British Burma', *Journal of Colonialism and Colonial History*, vol. 14, no. 1, 2013.

<sup>3</sup>J. S. Furnivall, *The fashioning of Leviathan: The beginnings of British rule in Burma* (Rangoon: Zabu Meitswe Pitaka Press, 1939); J. S. Furnivall, *Colonial policy and practice: A comparative study of Burma and Netherlands India* (Cambridge: Cambridge University Press, 1948), pp. 74–76; Mary P. Callahan, *Making enemies: War and state building in Burma* (Ithaca, NY: Cornell University Press, 2003), pp. 21–31; Robert H. Taylor, *The state in Myanmar* (Honolulu: University of Hawai'i Press, 2009); Michael W. Charney, *A history of modern Burma* (Cambridge: Cambridge University Press, 2009), pp. 7–10.

<sup>4</sup>Jonathan Saha, 'A mockery of justice? Colonial law, the everyday state and village politics in the Burma Delta, c. 1890–1910', *Past and Present*, vol. 217, no. 1, 2012, pp. 187–212; Jonathan Saha, *Law, disorder and the colonial state: Corruption in Burma c. 1900* (Basingstoke: Palgrave Macmillan, 2013). Quotes are from Saha, *Law, disorder and the colonial state*, pp. 4, 6.

<sup>5</sup>Previous scholarship has hardly ever examined Burma as a British Indian frontier. Most works on frontier and Burma focus either on agricultural reclamation in the Irrawaddy Delta or on the (ethnic) borderlands of Myanmar. See Edmund R. Leach, 'The frontiers of "Burma"', *Comparative Studies in Society and History*, vol. 3, no. 1, 1960, pp. 49–68; Michael Adas, *The Burma Delta: Economic development and social change on an Asian rice frontier, 1852–1941* (Madison: University of Wisconsin Press, 1974); Eric Tagliacozzo, 'Ambiguous commodities, unstable frontiers: The case of Burma, Siam, and imperial Britain, 1800–1900', *Comparative Studies in Society and History*, vol. 46, no. 2, 2004, pp. 354–377; Michael W. Charney, 'Literary culture on the Burma-Manipur frontier in the eighteenth and nineteenth centuries', *Medieval History Journal*, vol. 14, no. 2, 2011, pp. 159–181; Mandy Sadan, *Being and becoming Kachin: Histories beyond the state in the borderworlds of Burma* (Oxford: Oxford University Press, 2013); Pum Khan Pau, *Indo-Burma frontier and the making of the Chin Hills: Empire and resistance* (New Delhi: Routledge India, 2021). Scholarship on northeastern Indian frontiers largely focuses on the area of the colonial-era 'North-East Frontier', which excludes Burma. This line of work is voluminous; for a recent example, see Reeju Ray, *Placing the frontier in British North-East India: Law, custom, and knowledge* (New Delhi: Oxford University Press, 2023). The spatial perspective that considers Burma as an Indian frontier draws inspiration from recent Indian Ocean historiography, such as Rila Mukherjee (ed.), *Pelagic passageways: The northern Bay of Bengal before colonialism* (Delhi: Primus Books, 2011); Sunil S. Amrith, *Crossing the Bay of Bengal: The furies of nature and the fortunes of migrants* (Cambridge, MA: Harvard University Press, 2013); Kalyani Ramnath, *Boats in a storm: Law, migration, and decolonization in South and Southeast Asia, 1942–1962* (Stanford, CA: Stanford University Press, 2023).

<sup>6</sup>Benjamin D. Hopkins, 'The Frontier Crimes Regulation and frontier governmentality', *Journal of Asian Studies*, vol. 74, no. 2, 2015, pp. 369–389; Mark Condos, "'Fanaticism" and the politics of resistance along the North-West Frontier of British India', *Comparative Studies in Society and History*, vol. 58, no. 3, 2016,

to view Burma as a frontier with a particular meaning in the moral geography of the ICS.

For decades, Burma was widely known as the least desired destination for ICS candidates. A recent territorial acquisition for largely strategic purposes, Upper Burma was a remote, unknown frontier for British officers: given its cultural difference from India proper, Burma had a linguistic and cultural reality that ICS training could not prepare them for.<sup>7</sup> Even after the ‘pacification’ of massive uprisings following annexation, the colonial bureaucracy in Burma felt as if it had been suddenly parachuted into a massive unknown swathe of uncertainty.<sup>8</sup> For the central government in Calcutta (and London), this meant heightened suspicions regarding potential political insecurity, which demanded utmost loyalty. For the on-the-ground local officers, this meant a huge and excessive administrative burden that required linguistic and cultural proficiency. This spatial dialectic between the central and the local turned out to be an administrative dialectic between loyalty and competence, which manifested itself most pointedly in the case of H. E. McColl. Through an examination of McColl’s case, therefore, this article brings gender and bureaucracy together into a spatial perspective, and examines what the Burma frontier meant to the colonial administrators at various levels who lived through this administrative frontier.

### McColl’s many mysterious misconducts—or misfortunes?

Hugh Ernest McColl was both an ordinary and an extraordinary figure in the ICS of colonial Burma. Born on 21 May 1871 at his father’s seaside residence in Boulogne-sur-Mer in France, Hugh Ernest McColl grew up in a well-respected Scottish family of letters.<sup>9</sup> His father, Hugh MacColl, was an Oxford-trained mathematician, logician, and novelist, while his uncle, Malcolm MacColl, was a famous clergyman and public figure in the Church of England circles.<sup>10</sup> McColl attended Clifton College, before he was selected for the ICS in 1889 and sent to Christ’s College, Cambridge, on probational training for two years at the age of 18.<sup>11</sup> He was dispatched to Burma two years later in 1891, when his father published another novel which made the bestseller lists across

pp. 717–745; Benjamin D. Hopkins, *Ruling the savage periphery: Frontier governance and the making of the modern state* (Cambridge, MA: Harvard University Press, 2020); Thomas Simpson, *The frontier in British India: Space, science, and power in the nineteenth century* (Cambridge: Cambridge University Press, 2021).

<sup>7</sup>Thant Myint-U, *The making of modern Burma* (Cambridge: Cambridge University Press), pp. 186–218.

<sup>8</sup>Ibid.; Michael Aung-Thwin, ‘The British “pacification” of Burma: Order without meaning’, *Journal of Southeast Asian Studies*, vol. 16, no. 2, 1985, pp. 245–261.

<sup>9</sup>Hugh Ernest McColl, *Boulogne Vol. 3: Baptisms, 1839–1896*, General Foreign Registers and Returns, 1627–1960, page 71, No. 564, RG 33/39, The National Archives, Kew (hereafter TNA).

<sup>10</sup>Michael Astroh, Ivor Grattan-Guinness and Stephen Read, ‘A survey of the life of Hugh MacColl (1837–1909)’, *History and Philosophy of Logic*, vol. 22, no. 2, 2001, pp. 81–98; Augustus Robert Buckland, ‘MacColl, Malcolm’, *Dictionary of National Biography*, 1912 Supplement, Vol. 2 (Oxford: Oxford University Press, 1912).

<sup>11</sup>J. A. Venn (ed.), *Alumni Cantabrigienses: A biographical list of all known students, graduates and holders of office at the University of Cambridge, from the earliest times to 1900*, Part II, Vol. IV (Cambridge: Cambridge University Press, 1951), p. 257; ‘H E McColl; Selected Candidate for Burma, 1889; Requests Information on Surety’. IOR/L/PJ/6/274, File 641: 10 April 1890.

the empire.<sup>12</sup> Everything looked fine up to this point, but his next decision changed his entire life: he married a Burmese woman.

It was not at all uncommon for British officers to take Burmese women as concubines or mistresses. McColl, however, did something different: within a year of his arrival in Burma at the age of 20, he married a Burmese woman as his only legitimate wife. He arrived in Burma on 2 December 1891 and married a Burmese woman named Ma Phyu on 30 November 1892. Their first son, Hugh Herbert McColl, was born on 7 September 1893, in Shwegyin, Burma, and their second son, Alexander Malcolm McColl, was born a year later in Mandalay.<sup>13</sup> Because of his family life, unlike generations of Burma Commission officers who struggled with the Burmese language, McColl excelled at Burmese. In a Burmese language examination in June 1893 held by the General Department of the Burma Commission in Rangoon, McColl achieved top prize, ranking first among the 'higher standard' group.<sup>14</sup> This was certainly one of the proudest moments of McColl's life.

However, what followed his achievement was not fortune but suspicion, and his unusual linguistic capacity invited state scrutiny of his family life. In 1895, Sir Frederic Fryer, the chief commissioner of Burma, was concerned about McColl's marriage to a Burmese woman and outposted McColl to low-level positions in remote districts. He was initially transferred from Mandalay to Katha, where two decades later a young Eric Blair—otherwise known as George Orwell—took up his appointment. Within a year, McColl was again redispached to the remote province of Tenasserim. Both moves were definite demotions from his previous positions in Rangoon and Mandalay.<sup>15</sup> A few years later, he was permitted to return to Mandalay, but still serving as an assistant commissioner, an entry-level position that he had occupied upon his initial arrival in 1891. Soon afterwards, in 1898, he was again outposted to a position at the district level in Myingyan, certainly not good news for his career prospects.<sup>16</sup>

It was here in Myingyan that McColl's Burmese association brought him serious trouble. In Myingyan, there was an annual fair held at the Shwezigon Pagoda, where nearby villagers erected bazaar stalls in front of their houses that they rented out to vendors. The villagers obtained permission to erect stalls from pagoda trustees, who collected fees for such permissions. These fees would partially go to the maintenance of the pagoda. In November 1898, as sub-divisional officer, McColl instated a new policy whereby the government would issue permissions and collect stall rents instead of local Burmese authorities. But McColl did not see through the implementation of

<sup>12</sup>'Postings of new civilians', *The Pioneer*, Sunday, 18 October 1891, p. 4; 'New novels: A. J. Combridge and Co., Bombay', *The Pioneer*, Thursday, 28 May 1891, p. 8.

<sup>13</sup>For H. E. McColl's arrival date, see *The India Office list for 1911* (London: Harrison and Sons, 1911), p. 578; for Hugh Herbert McColl and Alexander Malcolm McColl's birth and age information, see 'Schedule 196, 34 College Road, Clifton, Bristol, Gloucestershire', *Census returns of England and Wales, 1911*, RG14/14831, p. 198, TNA; also *The India Office list for 1937* (London: Harrison and Sons, 1937), p. 763. For interracial intimacy between British colonial officials and Burmese women, see Ikeya, 'Colonial intimacies in comparative perspective'.

<sup>14</sup>'Burma gazette: General department', *The Pioneer*, Tuesday, 27 June 1893, p. 8.

<sup>15</sup>'Burma gazette: Appointment department', *The Pioneer*, Saturday, 30 November 1895, p. 7; Kenneth Ballhatchet, *Race, sex and class under the Raj: Imperial attitudes and policies and their critics, 1793-1905* (New York: St Martin's Press, 1980), pp. 148-149; *The India Office list for 1911*, p. 578.

<sup>16</sup>'Burma orders', *Times of India*, 23 February 1898, p. 3.

this policy before he set off on a tour, during which time applications for stall permissions came in. It was during this time that a certain Maung Po Than, Ma Phyu's brother-in-law briefly visiting Myingyan, filed an application that 'practically asked for a monopoly of building the whole of the stalls' around the village, 'up to the steps of the Pagoda'. Eventually, Maung Po Than monopolized the construction with more than a hundred stalls, and collected rent from both villagers and vendors. When McColl came back from his tour, it was already too late; he also did not do anything afterwards to address this situation.<sup>17</sup>

The Government of Burma noticed the situation but did not consider it to merit a disciplinary report to Calcutta. It was considered that McColl himself had not intentionally committed any felony but was taken advantage of by his Burmese relatives. In an internal letter, Deputy Commissioner J. H. Parsons commented,

McColl did not, I thoroughly [sic] believe, either himself sanction or intend that his brother-in-law should get the monopoly of erecting the stalls, yet the fact remains, that the brother-in-law did by some means acquire the monopoly of erecting nearly the whole of the stalls for the festival, thereby taking away the long established perquisite of the villagers and house-owners who used invariably to erect each man, the stall in front of his own house ... McColl's action, to say the least of it, was most injudicious and ill-considered, and were calculated to cause a breach of the peace.<sup>18</sup>

The Government of Burma concurred with this general assessment, and cited the above passage to highlight 'the use which his Burmese brother in-law made of the opportunity afforded by Mr. McColl's hasty and ill-judged proceedings'.<sup>19</sup> McColl himself was not the culprit; rather, it was only his lapse of judgement that had led to him being exploited by Maung Po Than.

This incident soon disappeared into oblivion until 1900, when two strange instances of defalcation caught the attention of Rangoon. In April 1900, McColl was transferred again to serve as the deputy commissioner of Myaungmya, where Ma Phyu's cousin, Maung On Ket, was working as treasurer. In May, in preparation for a remittance to the Bassein Treasury, Maung On Ket was responsible for counting bags of money, each containing Rs 1,000 in silver. After the delivery, when the remittance was examined upon arrival, Bassein Treasury discovered that one bag contained, 'instead of R1,000 in rupees, R400 only in rupees and a smaller bag containing copper to the value of R17-6-9, the whole being of the same weight as an ordinary bag of R1,000'.<sup>20</sup> Upon realizing this, the Bassein Treasury sent a telegraph and a letter to McColl, but neither reached him. The Treasury officer overseeing the delivery also informed Maung On

<sup>17</sup>Conduct of Mr. H. E. McColl, I.C.S., in Connection with Certain Defalcations at the Myaungmya Treasury', 357. IOR/L/PJ/6/581, File 1916. This document mistook Maung Po Than for McColl's brother-in-law. Corrected according to McColl's memorial, 'Memorial of H. E. McColl, Assistant Commissioner, Burma, To the Right Honourable Lord Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy of India, 10th October 1901'. In 'The Case of Mr H E McColl, ICS, Burma'. IOR/L/PJ/6/616, File 2327.

<sup>18</sup>Conduct of Mr. McColl', pp. 357-358.

<sup>19</sup>Ibid., p. 357.

<sup>20</sup>Ibid., p. 355.

Ket, who immediately remitted Rs 600 to compensate for the difference in value, in return for the small bag of copper.<sup>21</sup>

Maung On Ket was questioned about this incident and he gave a dubious explanation: he said that one bag had a hole on it and the silver rupees had fallen out, so he poured the remaining Rs 400 into another bag and put a personal bag of Rs 600 into it. But he had another bag of the same appearance with the same weight, but in copper, so he got confused and put that bag in by mistake. McColl clearly did not buy this explanation: 'It appears to me extraordinary that a mistake of the nature alleged could be made,' he wrote in a report, 'To put one bag containing rupees, together with loose rupees into another bag, is very unusual to say the least, and therefore it is difficult to understand why the Treasurer adopted this procedure in this instance.'<sup>22</sup> But since Maung On Ket had already cleared the balance and there was no loss to the Treasury, McColl ruled that no further action was necessary, apart from urging the Treasury officer to be 'extremely careful in supervising the custody and packing of cash in future'.<sup>23</sup>

This incident was also not the deal-breaker. What exploded the whole situation was what happened six months later. In November 1900, Maung On Ket was in charge of transferring Rs 25,000 from the Treasury. During the process, he was caught discreetly substituting bags by his Burmese colleague, who insisted on checking each bag and found six out of 33 bags containing Rs 400 in silver with a bag of copper, 'just as in the case of the bag sent to Bassein in the previous May'.<sup>24</sup> With an apparent Rs 3,600 deficit, Maung On Ket begged his colleague not to report him. His colleague consulted the Treasury officer and did not report him to McColl that night, hoping that Maung On Ket would replace the missing money soon. But Maung On Ket absconded that night, and his wife borrowed Rs 3,600 from Indian money lenders to repay the Treasury. McColl was informed the next morning, only to find out that the total shortage in the Treasury amounted to an astounding Rs 9,414. For comparison, the wholesale price per hundred baskets of rice paddy in Rangoon in 1900 was Rs 95, and McColl's own monthly salary in 1900 as a district deputy commissioner was Rs 1,233.<sup>25</sup>

With such an enormous monetary loss in such a small district, this case was soon escalated and caught the attention of high-level colonial officials, including the viceroy and the secretary of state for India. Reports on this case identified McColl, rather than Maung On Ket, as the primary target of suspicion, so the previous two incidents also came under scrutiny in case there was a general pattern in McColl's behaviour. To be fair, judging from both McColl's own testimony and the government correspondence, it seemed that McColl did not intentionally commit any fraudulent misconduct in any of these three incidents. For the state, the only thing he actually did wrong was that

<sup>21</sup>Ibid.

<sup>22</sup>'Enclosure B. Read the explanation of the Treasurer and the Report of the Treasury Officer'. In 'Conduct of Mr. McColl', p. 359.

<sup>23</sup>Ibid.

<sup>24</sup>'Conduct of Mr. McColl', p. 356.

<sup>25</sup>Cheng Siok-Hwa, *The rice industry of Burma, 1852-1940* (Kuala Lumpur: University of Malaya Press, 1968), 73; 'Enclosure No. 4. No. 873-7-C-32, dated the 29th May 1901. From—The Chief Secretary to the Government of Burma, To—The Secretary to the Government of India, Home Department', p. 6. In 'The Case of Mr McColl'.



he did not ruthlessly penalize Maung Po Than or Maung On Ket. McColl came to be politically suspected, and discussions of his conduct invariably mentioned his Burmese marriage as a factor. However, as for how to handle him, the governments of Burma and India had polar opposite ideas, which revealed a remarkable spatial dialectic of imperial administration between the local and the central.

### The spatial dialectic: local–central disagreements

The correspondence between the Government of Burma and the Government of India regarding McColl's case totalled more than a hundred typewritten pages. In April 1901, the Government of Burma submitted a detailed report on the three incidents to Calcutta, along with Maung On Ket's explanation and McColl's ruling. In this report, the Government of Burma ascribed McColl's misdeeds to the weakness of his will, which allowed his Burmese connection to have 'unconsciously perverted his judgment'.<sup>26</sup> But even such accusations were made with some reluctance: the report said that Sir Frederic Fryer, lieutenant governor of Burma, was 'forced to the conclusion' that McColl was 'not strong enough to keep his wife's Burmese relations in their proper place and to prevent them from taking improper advantage of their relationship'.<sup>27</sup> The report then suggested a solution: to transfer McColl temporarily out of Burma to another province in India proper, in exchange for an officer from the Indian service:

Mr. McColl is an officer of good abilities and, in a different environment, is capable of performing useful service. But, so long as he remains in this Province, there will be a constant danger of his Burmese relations causing further inconvenience and embarrassment to Government. For these reasons Sir Frederic Fryer desires to urge strongly the desirability of effecting an exchange between Mr. McColl and some officer of equal or nearly equal standing in some other Province where differences of race and language would make it difficult for Mrs. McColl's Burmese relations to turn the relationship to profit by proceedings which may bring contempt and dislike on the Government.<sup>28</sup>

Even when describing this proposed punishment, the Government of Burma still started with a positive praise of McColl's abilities. Moreover, when Fryer said he 'urge[d] strongly' the exchange of McColl, he knew he was not penalizing him, as Burma was widely known to be the least desirable of all provinces for ICS officers. In the disguise of punishment, the Government of Burma was really trying to mitigate the situation and protect McColl as much as possible, without outright offending Calcutta.

The Government of India immediately identified this hidden agenda, and refuted the Government of Burma's request in very strong terms. In a short, assertive response of only two paragraphs, the Government of India mocked the proposal of exchange, pointing out that 'both in respect of pay and of climate, he [McColl] could hardly fail

<sup>26</sup> 'Conduct of Mr. McColl', p. 356.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*, p. 358.



to be a gainer'.<sup>29</sup> Accusing McColl of having committed '*gross carelessness and laxity*' and '*conspicuous neglect of ordinary precautions and lamentable want of perspicacity*' (italics original), the Government of India ordered a much harsher penalty:<sup>30</sup>

The Government of India regret that they are quite unable to entertain any such proposal. On the contrary, they consider it necessary to direct that Mr. McColl shall not again for a period of two years be placed in independent charge of a district, and that in the meantime he is to be placed under some strong Deputy Commissioner, whose opinion should be taken before he is again promoted.<sup>31</sup>

Such a penalty would hurt McColl in three ways. First, his career prospects would be immensely curtailed, as he would again start from the lowest-ranking offices and his previous ten years of service would count as nothing. Second, as he would still be working among his colleagues in the Burma Commission, such a demotion would mean a major blow to his personal reputation or respectability in ICS circles. Third, such a demotion would also incur a huge pecuniary loss for McColl, since an assistant commissioner earned less than half of a deputy commissioner's salary.<sup>32</sup> Moreover, after ten years in Burma he was ready to take home leave, but the Government of India refused to count his leave time towards the two-year probationary period, so his financial loss would be for longer than two years.<sup>33</sup> But the most detrimental aspect of the penalty was the serious political suspicion that underlay this ruling—this suspicion from the high up that would cast a dark shadow over him for the rest of his life.

The Government of Burma sent a petition letter back asking for leniency, calling the penalty imposed by Calcutta 'out of proportion to the gravity of the offence'.<sup>34</sup> It denied the accusation of '*gross*' laxity or '*lamentable want of perspicacity*', and said that previously, in an even more serious embezzlement case causing a loss of Rs 12,850, the officers only received censuring orders without pecuniary punishment. McColl, however, would lose more than Rs 8,000 for this penalty in addition to the Rs 675 he had already paid for the Treasury deficit. More significantly, in a written note accompanying the petition, the Government of Burma directly challenged the basis for political suspicion, namely McColl's Burmese family connection:

In the first place, it is submitted that, however much we may deplore Mr McColl's indiscretion in marrying a Burmese wife and thus laying himself open to the risk of pressure by her relatives, that cannot by itself be treated as an article of indictment against him. Such unions (more often without than with the marriage tie) have not been uncommon in Burma; it is impossible to forbid them when sanctioned by legal marriage—and the only way to deal with them is to require an

<sup>29</sup>No. 338, dated the 10th May 1901. From—J. P. Hewett, Esq., C.S.I., C.I.E., Secretary to the Government of India, Home Department, To—The Chief Secretary to the Government of Burma'. In 'Conduct of Mr. McColl', p. 360.

<sup>30</sup>Ibid.; 'Enclosure No. 4. No.873—7-C.-32, dated the 29th May 1901', pp. 6, 9. Italics in original.

<sup>31</sup>Ibid.

<sup>32</sup>Enclosure No. 4. No.873—7-C.-32, dated the 29th May 1901', p. 6.

<sup>33</sup>The case of Mr H E McColl, ICS, Burma Commission; proposal to compensate him for the postponement of promotion due to a mistake in the Civil List'. IOR/L/PJ/6/655, File 2766.

<sup>34</sup>The Case of Mr McColl', Minute, 8. IOR/L/PJ/6/616.

officer who places himself in so difficult a position to obscure the greatest circumsppection, so as to give no ground for suspicion of influences having been brought to bear upon him.<sup>35</sup>

In their response, the Government of India completely evaded the issue of McColl's Burmese connection. Instead, Calcutta doubled down on their previous ruling, saying that 'the expression "gross carelessness" [wa]s fully justified by the facts'.<sup>36</sup> However, in a section explaining their refusal of the exchange proposal, they gave a telling account regarding Burma's undesirable status within British India and what a Burmese connection meant to them:

If such an officer were transferred and graded in Mr. McColl's place...he would have a reasonable grievance, in being compelled to leave a Province, possibly the one of his choice, to serve in one less to his taste and offering him no better prospects than the one he quitted. Mr. McColl has, by his own voluntary act in contracting Burmese connections, placed himself in a position of embarrassment, and His Excellency in Council thinks the consequences of his action cannot be fairly be allowed to react to the disadvantage of any other officer.<sup>37</sup>

Seeing that Calcutta was unwilling to compromise, the Government of Burma perseveringly appealed again. This time they themselves did not say much, but enclosed a long petition from McColl himself—a memorial of 85 paragraphs, addressed to the viceroy of India Lord Curzon, elaborately explaining the details of the three incidents and strongly denying the accusation regarding his Burmese connection. 'Your petitioner respectfully denies that there is any foundation whatever for the supposition that any of his official acts have ever in a single instance been influenced by his wife's relations', McColl stated firmly, and said in immense frustration that the penalty imposed by Calcutta was 'a stain on his record and a slur on his name'.<sup>38</sup>

The Government of India refused any grounds for negotiation in unequivocal terms, again with authoritative brevity in only two short paragraphs. More than a year had passed since the embezzlement cases took place. McColl served his penalty as an entry-level assistant commissioner in Tharrawaddy District under the supervision of Deputy Commissioner Porter, who reported positively about McColl's capabilities: 'I have always found him a willing, hardworking and efficient officer. He is fully qualified for the independent charge of one of the less important districts.'<sup>39</sup> Given Calcutta's persistent refusal to let McColl take independent charge of districts, the Government

<sup>35</sup>Ibid., p. 5.

<sup>36</sup>Enclosure No. 5. No.538, dated Simla, the 13th August 1901. From—J. P. Hewett, Esq., C.S.I., C.I.E., Secretary to the Government of India, Home Department, To—The Chief Secretary to the Government of Burma', p. 9. In 'The Case of Mr McColl'.

<sup>37</sup>Ibid., p. 10.

<sup>38</sup>'Memorial of H. E. McColl...10th October 1901', pp. 11–12. In 'The Case of Mr McColl'.

<sup>39</sup>Enclosure No. 8. No.174-T.—7-C—31, dated Myitkyina, the 10th July 1902. From—The Honourable Mr. C. G. Bayne, I.C.S., Chief Secretary to the Government of Burma, To—The Secretary to the Government of India, Home Department', p. 21. In 'The Case of Mr McColl'.

of Burma made an accommodative arrangement and transferred McColl out of executive roles into judicial ones. In March 1902, when a temporary vacancy occurred, McColl started working as an additional sessions judge 'on the recommendation of the Chief Court'.<sup>40</sup> The Judicial Commission valued McColl's Burmese-language skills, especially since the colonial court was gradually taking on more civil cases related to Burmese law. McColl never returned to the executive branch, and remained a civilian judge until his death.

Finally, McColl's case was escalated to the desks of Curzon and the secretary of state for India, Lord George Hamilton. After the accommodative transfer, McColl was enraged by Calcutta's stringent prohibition barring him from working in executive capacities, so he submitted yet another, handwritten, 22-page petition, this time to the secretary of state for India in London. In this petition, McColl again explained his role in the three incidents, and reiterated his appeal against Calcutta's penalty because 'he was punished without being called on for his defence' and 'he has made a good defence on the charges which led the Government of India to enhance the punishment'.<sup>41</sup> In the letter forwarding this petition upwards to London via Calcutta, the Government of Burma again reiterated their support for McColl's position, and cited the opinion of the lieutenant governor himself, which basically repeated McColl's two points.<sup>42</sup> This was by far the Government of Burma's most straightforward and audacious attempt to refuse the order from Calcutta in order to protect a subordinate officer. In forwarding the petition to London, Curzon also wrote a long letter to the secretary of state for India dismissing the petition. Curzon questioned McColl's integrity based on his choice of Burma, since 'Burma [wa]s notoriously the Province least desired by candidates for the Indian Civil Service', and defended the penalty for McColl, arguing that the goal was 'safeguarding the public administration which [wa]s compromised when inefficient officers [we]re placed in independent charges of importance'.<sup>43</sup>

### Loyalty and competence in the Burma frontier

Why did the Government of India and the Government of Burma exhibit such contrasting attitudes towards McColl's case, to the extent that they spent so much time and energy on it, arguing against each other over several years, hundreds of pages, and thousands of miles? I argue that this difference shows the diverging political priorities for the central and local governments: the central government in Calcutta prioritized political loyalty and certainty, while the local government needed administrative competence in the form of linguistic and cultural proficiency. The different political aspects of Burma as a newly annexed frontier were magnified under the microscope of McColl's case.

<sup>40</sup>Ibid.

<sup>41</sup>Enclosure No. 10. No.646—7-C—31, dated Rangoon, the 22nd July 1902. From—The Chief Secretary to the Government of Burma, To—The Secretary to the Government of India, Home Department', p. 1. In 'The Case of Mr McColl'.

<sup>42</sup>Ibid., p. 3.

<sup>43</sup>No. 80 of 1902. Government of India. Home Department. To the Right Honourable Lord George Francis Hamilton, His Majesty's Secretary of State for India. Simla, the 2nd October 1902', pp. 1, 4. In 'The Case of Mr McColl'.

Interracial conjugality for British officers had always been a politically contentious issue since the beginning of colonial rule.<sup>44</sup> It was particularly the case in Burma, where a cultural stereotype about Burmese women took on a hostile political connotation. It was a well-known truism among British officers (and a long-running academic myth) that Burmese women were independent, capable, and powerful personalities, especially compared to Indian women.<sup>45</sup> A highly derogatory recollection by a former ICS officer remarks, ‘Women talked and laughed with men, managed their own property and sometimes their husbands’ as well; women in Burma had to be treated as personalities.<sup>46</sup> This stereotype led to the colonial state’s strong distrust of Burmese women, especially those in conjugal relationships with British officers, as the colonial state feared that the independent personalities of Burmese women would emasculate British officers and would ‘use their feminine influence to interfere with official business and corrupt British justice’.<sup>47</sup> Burmese women were considered to be enticing and a corrupting influence in these relationships, sugar-coating moral decadence with joyful, light-hearted companionship. The aforementioned former ICS officer once made a telling comment:

There was often real affection [between British officers and Burmese women]; it was pleasant to come home to an amiable companion who would talk over what had happened during the day, laugh at a man’s troubles, and tease him in a friendly way that would restore his sense of proportion. No doubt he learned more from Ma Phyu than he would from whist or snooker at the club. All the same, most good officers believed that in the end moral standards were lowered and the way paved for corruption.<sup>48</sup>

Besides the moral disdain and political distrust against Burmese women, what is striking here is the author’s explicit reference to Ma Phyu. There is no Ma Phyu mentioned in the text before this quote. The author, Philip Mason, joined the ICS in 1928, several years after McColl’s death, and he was never posted to Burma.<sup>49</sup> ‘Ma Phyu’ was certainly not a common name for a British officer’s wife, so it was quite possible that the story of Ma Phyu and McColl assumed a status of colonial ‘urban legend’ among ICS circles across British India.

McColl, therefore, always had to face the ever-looming political suspicion that he might come under the negative influence of his Burmese wife. Such suspicion was not always mentioned, but whenever something happened, it would be the first thing

<sup>44</sup>Ghosh, *Sex and the family in colonial India*.

<sup>45</sup>Chie Ikeya, ‘The “traditional” high status of women in Burma’, *Journal of Burma Studies*, vol. 10, 2005, pp. 51–81; Lucy Delap, ‘Uneven Orientalisms: Burmese women and the feminist imagination’, *Gender and History*, vol. 24, no. 2, 2012, pp. 389–410.

<sup>46</sup>Philip Woodruff, *The men who ruled India: The guardians* (London: Jonathan Cape, 1954), p. 129.

<sup>47</sup>Jonathan Saha, ‘Whiteness, masculinity and the ambivalent embodiment of “British justice” in colonial Burma’, *Cultural and Social History*, vol. 14, no. 4, 2017, p. 530; James George Scott, ‘The position of women in Burma’, *The Sociological Review: Journal of the Sociological Society*, vol. 6, 1913, pp. 139–146; Jonathan Saha, ‘The male state: Colonialism, corruption and rape investigations in the Irrawaddy Delta c. 1900’, *Indian Economic and Social History Review*, vol. 47, no. 3, 2010, pp. 343–376.

<sup>48</sup>Philip Mason, *The men who ruled India* (New York: W. W. Norton and Co., 1985), p. 234. The author previously published under the pen name ‘Philip Woodruff’.

<sup>49</sup>Hugh Tinker, ‘Philip Mason obituary: Last witness to the Raj’, *The Guardian*, Tuesday, 2 February 1999.

that occurred to other British officers. It should also be noted that Ma Phyu herself never came to the frontstage in any of these cases or correspondences, but she was also everywhere, as the ever-present 'scarlet letter' that cast a shadow over McColl's professional life. There was also a subtle difference in the ways the local and central authorities referred to Ma Phyu: the Government of Burma used the term 'Mrs. McColl', whereas the Government of India only used generic terms such as 'his Burmese wife'. In an age of emerging Indian nationalism, which led to the Swadeshi Movement a few years later, the Government of India was particularly cautious about political loyalty, and demanded absolute clarity regarding the political 'us' and the political 'other'.

For the Government of Burma, however, priorities were entirely different. After the annexation of Upper Burma in 1885, the Burma Commission suddenly faced a huge administrative lacuna with a significant staffing shortage. Additionally, Burmese language proficiency among ICS officers was appallingly low. Since Burma was a recent territory and Burmese belonged to a different linguistic family from Indo-European, the long-established ICS training schemes for Indian languages proved to be almost completely useless for Burma, and no real training in Burmese language existed. The staffing shortage and the lack of linguistic proficiency meant that the local government had a particularly strong practical need for people like McColl, especially in civil courts which required knowledge of literary Burmese. This also explains why McColl was later transferred to judicial positions in particular.

This stark contrast in political priorities becomes further evident if we conceptualize Upper Burma as a 'frontier' space, especially for colonial administration. ICS officers routinely considered Upper Burma to be a land so remote, different, and untamed compared to British strongholds in India proper, and envisioned it as a swampy unknown frontier of banishment. Conventionally, it was not common practice to refer to Upper Burma as a 'frontier' area, either in colonial references or in scholarly literature. But according to this ICS vision, Upper Burma was not that much different from the frontier areas of northeast or northwest India, as both would invoke a sense of uncertainty, danger, and anxiety for the British administration on the ground.

Scholars have rarely conceptualized Upper Burma (especially the Irrawaddy valley region) as 'frontier', partly because of the residual influence of a civilizational approach to the study of Burma, both in colonial anthropology and in twentieth-century scholarship.<sup>50</sup> In European colonial philology and ethnology on South and Southeast Asia, colonial scholar-officials exhibited a strong urge to find a common classical origin (Sanskritic or Dravidian) for various disparate societies.<sup>51</sup> For Southeast Asia, this urge informed the basis of the 'Indianization' thesis to explain early scripts and religious cultures in Southeast Asia, which resonated with an emerging Indian nationalist scholarship emphasizing the historical significance of 'Greater India'.<sup>52</sup>

<sup>50</sup>It is not uncommon for agrarian river valley areas to be considered frontiers. See, for example, Adas, *The Burma Delta*; Richard M. Eaton, *The rise of Islam and the Bengal frontier, 1204-1760* (Berkeley: University of California Press, 1992); Iftekhar Iqbal, *The Bengal Delta: Ecology, state and social change, 1840-1943* (Basingstoke: Palgrave Macmillan, 2010).

<sup>51</sup>Thomas R. Trautmann, *Aryans and British India* (Berkeley: University of California Press, 1997); Thomas R. Trautmann, *Languages and nations: The Dravidian proof in colonial Madras* (Berkeley: University of California Press, 2006).

<sup>52</sup>George Cœdès, *Les états hindouisés d'Indochine et d'Indonésie* (Paris: E. de Boccard, 1948); R. C. Majumdar, *Hindu colonies in the Far East* (Calcutta: Firma K. L. Mukhopadhyay, 1944); U. N. Ghoshal and Kalidas Nag (eds), *Journal of the Greater India Society* (Calcutta: Calcutta Oriental Press, 1934-1946); Susan Bayly,

According to this line of thought, Sanskritic culture formed the foundation of classical Indian civilization, whereas its vernacular versions in 'Greater India', in the form of Pali and Theravada Buddhism, were crucial (yet lesser) iterations of this civilization.

Twentieth-century scholars, especially mid-century anthropologists from Chicago, built upon such ideas and developed the thesis of 'Great Tradition' versus 'Little Tradition', with the former meaning universal and cosmopolitan systems of civilizational culture, and the latter meaning local and particular forms of vernacular culture.<sup>53</sup> Within this framework, the Irrawaddy valley region of Upper Burma, as a centre of Burmese Theravada Buddhism, qualifies somewhat as a civilizational centre, given its connection to the greater cosmopolitan Sanskritic tradition by way of Pali and Buddhism. Meanwhile, the status of a 'frontier' space in South and Southeast Asia was traditionally reserved for societies without such Indic roots, especially for those with no extensive histories of institutional religion or written script before European colonialism, such as much of the Indian northeast and the borderland areas in northern Upper Burma. Colonial anthropology recognized these people as 'tribes', and twentieth-century scholars considered them to fall outside of the 'cosmopolis' of the Great Tradition.<sup>54</sup> Therefore, according to this line of thought, the Irrawaddy valley region of Upper Burma would definitely not be considered a 'frontier' area by any means.

Recent scholarship on space, law, and colonial governance, however, has provided a new approach to conceptualizing the colonial frontier. Framing around the concept of 'frontier governmentality', Benjamin Hopkins suggests that frontier should be viewed as an 'ideational space' of colonial governance, with an underlying coherence of imperial logic of control across drastically different geographies.<sup>55</sup> Focusing on the northeastern frontiers of British India, Reeru Ray conceptualizes frontier as 'a particular type of political-legal space', emphasizing the place-making process through colonial law.<sup>56</sup> Turning attention to the interior frontiers between British India and the princely states, Eric Lewis Beverley theorizes frontier as 'resource', arguing that the layered and fissured nature of political sovereignty was what made these areas frontiers, providing spaces and opportunities for litigants to navigate across borders and jurisdictions.<sup>57</sup>

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'Imagining "greater India": French and Indian visions of colonialism in the Indic mode', *Modern Asian Studies*, vol. 38, no. 3, 2004, pp. 703–744.

<sup>53</sup>Robert Redfield, 'The social organization of tradition', *Far Eastern Quarterly*, vol. 15, no. 1, 1955, pp. 13–21; Milton B. Singer, *When a great tradition modernizes: An anthropological approach to Indian civilization* (New York: Praeger, 1972).

<sup>54</sup>For colonial anthropology and the designation of tribal status, see Simpson, *The frontier in British India*, pp. 172–181; Ray, *Placing the frontier*, p. 132. For more recent characterizations of the various 'cosmopolises' of Great Traditions, see Sheldon Pollock, *The language of the gods in the world of men: Sanskrit, culture, and power in premodern India* (Berkeley: University of California Press, 2009); Ronit Ricci, *Islam translated: Literature, conversion, and the Arabic cosmopolis of South and Southeast Asia* (Chicago: University of Chicago Press, 2011).

<sup>55</sup>Hopkins, *Ruling the savage periphery*, p. 14.

<sup>56</sup>Ray, *Placing the frontier*, p. 190.

<sup>57</sup>Eric Lewis Beverley, 'Frontier as resource: Law, crime, and sovereignty on the margins of empire', *Comparative Studies in Society and History*, vol. 55, no. 2, 2013, pp. 241–272.

Building upon these insights that approach the frontier through ideational space, place-making, or potentials, I argue that Upper Burma can be understood as an envisioned frontier through the lens of individual experiences: frontier as an ideational space not primarily of the colonial state (as Hopkins argues) but of the individual envisionings of those on the ground. This envisioned frontier, therefore, would not be associated with any civilizational criteria, nor dictated under the top-down gaze of any centralized colonial authority, but reflect the embodied visions of the individuals experiencing it in this space itself. Seeing the Irrawaddy valley area as an envisioned frontier places this region within a geographical scheme of variegated frontier-ness in all of Burma: Lower Burma, which had been a frontier of rice cultivation and vernacular finance before the land of the Irrawaddy Delta reached full reclamation capacity; Upper Burma around the Irrawaddy valley area, the heart of oil mining and teak production where massive global capital influx happened; and the ‘Excluded Areas’ of borderland/Zomia, which was often considered beyond the reach of the official colonial civilizing mission. British Burma was, therefore, in a way, a place of three frontiers.<sup>58</sup>

Then the question is: an envisioned frontier for whom? The social location of the on-the-ground individuals in the colonial hierarchy would heavily determine what their respective visions were about. On one hand, many Indian migrants to Burma found it to be a frontier of opportunities: a land rich in resources and small in population with lucrative business potential, reigned by corporate power over a minimal colonial state presence.<sup>59</sup> British colonial administrative personnel, on the other hand, saw Burma as a frontier of banishment, shame, and undesirability, which will be further elaborated below. This tale of two frontiers—two drastically contrasting images of what the frontier means—significantly exacerbated the colonial state’s concern for loyalty and competence among its administrative personnel in Upper Burma.

<sup>58</sup>For Lower Burma as frontier, see Adas, *The Burma Delta*; for Zomia and Burma, see Willem van Schendel, ‘Geographies of knowing, geographies of ignorance: Jumping scale in Southeast Asia’, *Environment and planning D: Society and Space*, vol. 20, no. 6, 2002, pp. 647–668; James C. Scott, *The art of not being governed: An anarchist history of upland Southeast Asia* (New Haven: Yale University Press, 2009); Jean Michaud, ‘Editorial—Zomia and beyond’, *Journal of Global History*, vol. 5, no. 2, 2010, pp. 187–214; Sadan, *Being and becoming Kachin*, pp. 25–26. I would like to thank the anonymous reviewer at *Modern Asian Studies* for suggesting the idea of a three-layered ‘variegated frontier-ness’ in Burma.

<sup>59</sup>For example, Mitra Sharafi has characterized the Parsi influx into Burma in the late nineteenth century as a search for opportunities to go from ‘rags to riches’. See Mitra Sharafi, *Law and identity in colonial South Asia* (Cambridge: Cambridge University Press, 2014), p. 294, n. 98; Mitra June Sharafi, ‘Bella’s case: Parsi identity and the law in colonial Rangoon, Bombay and London, 1887–1925’, PhD thesis, Princeton University, 2006, pp. 48–49. Although what Sharafi discusses was the Rangoon context in Lower Burma, the vision for opportunities to seek fortunes was further magnified in Upper Burma due to rich natural resources and a strong corporate presence over a poor state presence. For corporate power over state power in Upper Burma, see, for example, David Baillargeon, ‘“Imperium in imperio”: The corporation, mining, and governance in British Southeast Asia, 1900–1930’, *Enterprise and Society*, vol. 23, no. 2, 2022, pp. 325–356. For the relationship between strong corporate power and frontier place-making, see Bodhisattva Kar, ‘Nomadic capital and speculative tribes: A culture of contracts in the northeastern frontier of British India’, *Indian Economic and Social History Review*, vol. 53, no. 1, 2016, pp. 41–67.



### Upper Burma as an administrative frontier: Staffing shortages after 1885

The violent conquest of Upper Burma in 1885 meant not only a series of British military counter-insurgency operations, but also a huge, sudden expansion of the imperial administrative apparatus into that territory. The scale and speed of this administrative lacuna proved to be a challenge for the colonial state, which had a vested interest in both expanding its size and maintaining its image of administrative competence. These two goals became inevitably irreconcilable, as the existing colonial state apparatus in Lower Burma simply could not cope with such a sudden expansion of coverage. The colonial state, especially the judiciary, which required significant expertise both linguistically and professionally, faced a serious staffing shortage. The Burma Commission suddenly needed to double its personnel in order to fill the offices in the four newly created divisions.<sup>60</sup> Such a shortage lasted for decades without being fully resolved, partly because Burma was considered a wild frontier space in the imperial imagination, where ICS candidates were mostly reluctant to go.

In a memoir published in 1913, Herbert Thirkell White, later lieutenant governor of Burma, recounted the tumultuous moment of administrative change in 1886, when he took a position in the Secretariat for Upper Burma in Mandalay immediately after the annexation:<sup>61</sup>

Having taken over an area twice as large as Lower Burma, [Chief Commissioner of Burma] Sir Charles Bernard was confronted with the task of finding officers to administer it. Obviously the existing staff could not be stretched to cover the new Province and provide equipment for the old Province as well. For the Commission civilians were sent from other provinces, military civilians were recruited, and appointments were offered to men in various departments or not yet in Government service. In each of these alternatives there were advantages and disadvantages. Civilians from other provinces, though versed in the art of administration, were ignorant of the language and customs of Burma. Military civilians, excellent material, needed some training in civil work. Officers of other departments and non-officials recruited in the Province knew the language and the people, but had no acquaintance with administrative methods.<sup>62</sup>

White points out a double-need for the expanding imperial administration: the need for professional expertise and the need for cultural and linguistic familiarity. For the judicial departments in Upper Burma, neither alternative was sufficient on its own, as only a combination of the two could properly do the job. But in reality, the ICS in Burma had a hard time attracting anyone at all, let alone someone who had both skill sets. As a remote province on the margins of British India, with its distinctive customs and cultures, Burma had always been perceived by the British as a radically different

<sup>60</sup>Nicholas Bayne, 'Governing British Burma: The career of Charles Bayne (1860–1947) in the Indian Civil Service', *The Round Table*, vol. 96, no. 389, 2007, p. 125.

<sup>61</sup>J. Nisbet, 'The development and trade in Burma', *The Westminster Review*, vol. 168, no. 5, 1907, p. 483; Edith L. Piness, 'The British administrator in Burma: A new view', *Journal of Southeast Asian Studies*, vol. 14, no. 2, 1983, p. 374.

<sup>62</sup>Herbert Thirkell White, *A civil servant in Burma* (London: Edward Arnold, 1913), p. 157.

place from the provinces of India proper.<sup>63</sup> It was famously among the least desired destinations for young British candidates competing for ICS posts. By the 1890s Burma was already well known as an ‘unpopular Province’, and many in the ICS considered working there as a ‘punishment’.<sup>64</sup> Reflecting on his 32 years working in Burma from 1878 to 1910, White laments,

Burma was not considered of sufficient importance to have men assigned to it after the open competitions. Men were sent thither for their sins, either permanently or for a term of years. A Chief Commissioner’s wife is said to have told one of these young men that other Provinces sent their worst men to Burma. However this may be, no doubt Burma was regarded as a place of banishment, a dismal rice-swamp (or, as was once said, a howling paddy-plain), where the sun never shone. I remember, while still in London, the commiseration expressed with one of our seniors whose deportation to this dreary land was announced.<sup>65</sup>

Such a perception—and undesirability—did not change much after the administrative expansion post-1885, and remained in place well into the twentieth century.<sup>66</sup> In a recollection of his experience serving in the ICS, Leslie Glass recalls that in the early 1930s, ‘Burma was not favoured by ambitious candidates: it was considered too remote and backward, the “Cinderella” province.’<sup>67</sup> Only youngsters who had family ties to the Burma service would choose a post there, and there was little competition to get in. With such a widespread negative opinion of the Burma posts, many ICS officers in Burma had an anxious urge to justify themselves, either by claiming that they had ties with Burma so they had chosen it voluntarily, or by demonstrating their excellent work on the job in order to dispute any possible suspicion that they were the unwanted leftover candidates.<sup>68</sup>

This inability to attract people was also reflected through the relatively small size of British judicial personnel in Burma. Despite decades of administrative development and a sharp increase in the number of lawsuits around 1910, there was barely any change in the number of British personnel working at the Judicial Department in Burma across the 30-year period after 1885. In 1888, there were 14 British officers in the Judicial Department across Burma; in 1898, still 14; in 1902, 16; in 1905, 14; in 1908, 13; and in 1916, 16.<sup>69</sup> For years, the Judicial Department struggled even to maintain

<sup>63</sup>For the perceived cultural difference between India and Burma, see Woodruff, *The men who ruled India*, pp. 115–118.

<sup>64</sup>A. P. Pennell, ‘Letter and enclosures from Mr. A. P. Pennell to Under Secretary of State, 10 Aug. 1901’, *Correspondence relating to the removal of Mr. A. P. Pennell from the Indian Civil Service* (London: Darling and Son, 1902), p. 80.

<sup>65</sup>White, *A civil servant in Burma*, pp. 7–8.

<sup>66</sup>Anthony Kirk-Greene, *Britain’s imperial administrators, 1858–1966* (Basingstoke: Palgrave Macmillan, 2000), p. 105.

<sup>67</sup>Leslie Glass, *The changing of kings: Memories of Burma 1934–1949* (London: Peter Owen, 1985), p. 10.

<sup>68</sup>*Ibid.*

<sup>69</sup>*The India list: Civil and military, July 1888* (London: W. H. Allen and Co., 1888), 54; *The India list and the India Office list for 1898* (London: Harrison and Sons, 1898), p. 39; *The India list and the India Office list for 1902* (London: Harrison and Sons, 1902), pp. 39–40; *The India list and the India Office list for 1905* (London: Harrison and Sons, 1905), p. 70; *The India Office list for 1908* (London: Harrison and Sons, 1908), p. 82; *The India Office*

such numbers, and had to recruit Civil Service staff within Burma without any prior legal training to serve as judges. The appointment of such ‘civilian judges’ in the upper echelons of the judicial structure in Burma worried ICS circles, and stirred up quite a controversy in 1900 when someone with no legal training was appointed as the chief judge of a major court.<sup>70</sup> Such appointments were worrisome not only because the ‘civilian judges’ lacked legal training, but, more devastatingly, these untrained British civilian judges would have to supervise the Burmese subordinate magistrates and face well-trained Indian lawyers, many of whom found Burma to be a place of opportunity for their practice.<sup>71</sup> The thought of an incompetent superior judicial supervisor being mocked or challenged by native subordinates was certainly a frightful one for people concerned with the image of the empire. However, given the practical challenges of staffing the courts, the Judicial Commission had no choice but to recruit civilian judges. McColl was one of them.

### Lack of command of the ‘language of command’: Burmese language training

Not only was the imperial administration having significant difficulty with staffing in Burma, but even among those already recruited, it was hard to find anyone with real proficiency in Burmese well into the twentieth century. Despite decades of British rule in Burma since the mid-1820s, the ICS did not have Burmese language examinations until the early 1880s, while the examination for Indian regional languages had already been well-developed, with a whole publishing industry surrounding its preparation.<sup>72</sup> The first mention of a Burmese examination for the ICS occurred in 1882.<sup>73</sup> The required textbook, known as ‘Chase’s Handbook’, was a very basic primer prepared by a British military officer that was published in Burma in 1852 by the American Baptist Mission. This pocket-sized booklet was split between basics such as phonetics, alphabet, numerals, and very basic grammar, and another half of vocabulary, short sentences, etc.<sup>74</sup> The examiner, Horace A. Browne, also served in the Indian Army before retirement, and headed expeditions into the Burma–China borderlands in 1875.<sup>75</sup> Unlike some of his later successors in the ICS such as J. E. Bridges, Browne was not known at all for his linguistic proficiency. As the sole examiner of Burmese,

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*list for 1916* (London: Harrison and Sons, 1916), p. 82. This trend did not change even after the turmoil of the Great War and Depression, with 21 European officers in the Judicial Department in 1929 and 17 in 1939. See Woodruff, *The men who ruled India*, pp. 364–365.

<sup>70</sup>White, *A civil servant in Burma*, pp. 280–283.

<sup>71</sup>*Ibid.*, p. 282; Furnivall, *Colonial policy and practice*, p. 136; Nalini Ranjan Chakravarti, *The Indian minority in Burma: The rise and decline of an immigrant community* (New York: Oxford University Press, 1971), p. 31.

<sup>72</sup>For an example of the ICS Indian language examination and its preparation industry, see *Guide to employment in the civil service, the system of open competition, and offices and salaries in the various departments* (London: Cassell, Petter, Galpin and Co., 1882), pp. 269–270, 276–278, 288.

<sup>73</sup>*Twenty-seventh report of Her Majesty’s civil service commissioners* (London: Eyre and Spottiswoode, 1883), p. xiv.

<sup>74</sup>*Ibid.*, p. 485; Dormer Augustus Chase, Lieut., *Anglo-Burmese hand-book, or guide to a practical knowledge of the Burmese language* (Maulmain: American Mission Press, 1852).

<sup>75</sup>John Anderson, *Mandalay to Momien: A narrative of the two expeditions to western China of 1868 and 1875, under Colonel Edward B. Sladen and Colonel Horace Browne* (London: Macmillan, 1876).

he held this position for more than two decades until around 1907, when the ICS finally managed to recruit more qualified examiners.<sup>76</sup>

Unlike major Indian languages, there was no formal institutional provision of Burmese language instruction in Britain until the 1910s. The rudimentary nature of Chase's Handbook and the inadequate linguistic level of Horace Browne meant that Burmese language training for ICS personnel remained pro forma for decades. A Burmese reader for ICS training similar to those used for Indian languages finally appeared in Britain in 1894, but it did little to change the overall situation of language training, as in-class instruction remained largely absent.<sup>77</sup> The first complete English-Burmese dictionary only became available in 1906. It was compiled by a Burmese in Burma, brought to Britain, and was known for its terrible paper and binding.<sup>78</sup> Many ICS officers working in Burma familiarized themselves with colloquial Burmese only after years of on-the-ground experience, and never really learned the literary register.<sup>79</sup>

The official provision of Burmese language training was so non-existent compared to the practical needs in Burma on the ground that a private British company with operations in Burma started its own Burmese language courses in London in the early 1900s. Steel Brothers, a British corporation with businesses in Burmese rice, teak, and oil industries, decided to hold Burmese classes to train their own Burma-bound employees.<sup>80</sup> The company hired J. E. Bridges, a former ICS officer now affiliated with Oxford, to conduct conversational classes at the company's office on weekdays after 3pm. The number of students varied between 17 and 30, far more than any occasional classes held at University College or Oxford—those generally averaged three students per class.<sup>81</sup> This private arrangement by Steel Brothers became well known and ultimately played a significant role in the Lords Commissioners' decision to offer Burmese instruction through the establishment of the School of Oriental and African Studies in London.

Such utter lack of proper training also proved to be a huge problem for everyday legal work in the colonial courts. The Anglo-Burmese legal system that emerged

<sup>76</sup> *Fifty-second report of His Majesty's civil service commissioners* (London: Darling and Son, 1908), p. xv.

<sup>77</sup> R. F. St Andrew St John, *A Burmese reader: Being an easy introduction to the written language and companion to Ragoon's grammar* (Oxford: Clarendon Press, 1894).

<sup>78</sup> U Tun Nyein, *The student's English-Burmese dictionary* (Rangoon: Burma Government Press, 1906); R. C. T., 'Review of *The student's English-Burmese dictionary*. By Tun Nyein. Rangoon, 1906', *Journal of the Royal Asiatic Society of Great Britain and Ireland*, vol. 41, no. 2, 1909, p. 510; Ian Brown, *The School of Oriental and African Studies: Imperial training and the expansion of learning* (Cambridge: Cambridge University Press, 2016), p. 106.

<sup>79</sup> White, *A civil servant in Burma*, p. 41.

<sup>80</sup> Philip Hartog to Cromer, 9 February 1912, SOAS R3/2, Special Collections, SOAS University of London; Brown, *The School of Oriental and African Studies*, pp. 9–10; *Report of the committee appointed by the Lords Commissioners of His Majesty's Treasury to consider the organisation of Oriental Studies in London* (London: Eyre and Spottiswoode, 1909), p. 14.

<sup>81</sup> *Minutes of evidence taken by the committee appointed by the Lords Commissioners of His Majesty's Treasury to consider the organisation of Oriental Studies in London* (London: Eyre and Spottiswoode, 1909), pp. 19–20, 189–191. For average enrolment numbers in occasional Burmese language classes at University College, see *Report of the committee ... to consider the organisation of Oriental Studies in London*, p. 65.

throughout the nineteenth century was known to be based on the Burmese *dhammathat*, a genre of legalistic texts in Pali and Burmese largely concerning everyday topics, especially family matters.<sup>82</sup> Since Burmese is a diglossic language whose colloquial and literary registers differ significantly, legal work engaging with the *dhammathats* requires a high knowledge of literary Burmese.<sup>83</sup> The conversational proficiency that ICS officers acquired in Burma was nowhere near the level required for legal work. As a result, British judges in the colonial courts relied heavily on the highly inadequate English language reference works on the *dhammathat* to complement case-law ruling authorities.<sup>84</sup> On occasions when these reference works would not suffice, British judges themselves had to take on the challenging task of interpreting the *dhammathat* texts in Burmese, and they generally found the job to be a torturous one. In a 1905 ruling on a divorce case, George W. Shaw, who had recently been promoted to be the judicial commissioner of Upper Burma, digressed excessively from his original judicial prose, laboriously lamenting on the difficulty of having to attend to the *dhammathat* himself:

Mr. Jardine regretted that in the generation that had elapsed since the publication of Richardson's translation of the *Manugye*, nothing had been done to elucidate the sources and the meaning of the rules of law contained in the *Dhammathats*, and that so few Judicial decisions existed.

It is strange to find that almost another generation has passed since Mr. Jardine's invitation to scholars to study the *Dhammathat's*, and that beyond Dr. Forchhammer's Prize Essay, the publication and translation of the *Kinwun Mingyi's Digest* at the instance of the late Mr. Burgess represents all that has been done during that time, while Judicial decisions have been even fewer than before. On the question now at issue, there is also a conflict of opinion between this Court and the High Court of Lower Burma, which makes it necessary for me now to examine these decisions and to endeavour to come to an independent conclusion.

I undertake the task with diffidence and reluctance, owing to the difficulty and complexity of the subject and especially because it involves criticism of the opinions of Judges who were my superiors in every way except perhaps in knowledge of Burmese.

I feel that I am hampered by want of the time needed for an adequate study of the *Dhammathats*, and of the judicial principles involved.<sup>85</sup>

<sup>82</sup>D. Christian Lammerts, *Buddhist law in Burma: A history of Dhammasattha texts and jurisprudence, 1250–1850* (Honolulu: University of Hawai'i Press, 2018).

<sup>83</sup>*Report of the committee ... to consider the organisation of Oriental Studies in London*, p. 105.

<sup>84</sup>John Jardine, *Notes on Buddhist law, by the Judicial Commissioner, British Burma*, 8 vols (Rangoon: Office of the Superintendent, 1882–1883); Chan-Toon, *The principles of Buddhist law* (Rangoon: Myles Standish and Co., 1894).

<sup>85</sup>*Mi Kin Lat v. Nga Ba So'*, Civil appeal No. 252 of 1904, 23rd October, 1905. *Upper Burma rulings, 1904–06*, Civil, Vol. II (Rangoon: Office of the Superintendent, Government Printing, 1914), p. 4.

There are two important points in Shaw's anxious confession. First, he was extremely reluctant to deal with the *dhammathat* himself, given his own level of Burmese. Shaw entered the ICS Burma Commission in 1879, before any language examination or training existed.<sup>86</sup> Although he mentioned other judges who were his superiors 'in every way except perhaps in knowledge of Burmese', it only shows that they were even less linguistically capable. Second, the above passage reveals an important intergenerational tension among British judicial officers in Burma: the younger generation were better trained professionally compared to their military predecessors, but due to the hierarchical structure of the ICS, they were unwilling to challenge their predecessors on professional issues for fear of revenge from their superiors. This tension became particularly pronounced in rare instances when linguistically capable officers arrived, as they would be in a much stronger position to challenge their superiors, and therefore much more prone to professional jealousy, suspect, and distrust. McColl turned out to be such a person.

### McColl in court: An Orwellian reading of unfreedom

The political suspicion hanging over McColl had long-lasting effects and outlived the case itself. Even after his disqualification period was over, McColl was still only able to return to a meagre position as the judge of the Small Cause Court in Moulmein in June 1903, far away from the regional centres of Rangoon or Mandalay—and that in itself already an undesired part of the empire.<sup>87</sup> A few years later, in 1908, McColl was still working at the local level as a sessions judge in Bassein, a provincial town at the margin of Lower Burma.<sup>88</sup> Seventeen years had passed since he first arrived in Burma, but there had been no progress in his professional life. He surely paid a hefty price for his decision to marry a Burmese woman.

But after all it was a well-known fact that McColl was good at Burmese, which came into greater demand around 1910. A radically developing oil industry in Magwe District brought about a significant increase in land prices and an ensuing spike in civil lawsuits in Mandalay, so George Shaw needed more hands to handle cases related to inheritance, marriages, and divorces.<sup>89</sup> Such family matters, according to the arrangements laid out by the 'Judicial Plan' of British India, belonged to the realm of native religious law, so the court needed people who could deal with matters related to 'Burmese Buddhist Law'.<sup>90</sup> Having been banished all over Burma for almost a decade, McColl emerged as a good candidate for this additional judge position, and he was appointed

<sup>86</sup>'Sir G. W. Shaw', *The Times*, 28 November 1931, p. 12.

<sup>87</sup>Ballhatchet, *Race, sex and class*, p. 151; *The India Office list for 1911*, p. 578.

<sup>88</sup>'Polygamy in Burma', *The Amrita Bazar Patrika*, Calcutta, 19 September 1908, p. 9.

<sup>89</sup>The significant increase in litigation in Upper Burma around 1910 is recorded in 'Upper Burma', *Reports on the administration of civil justice for the year 1911* (Rangoon: Office of the Superintendent, Government Printing, 1912), pp. 14–15; 'Upper Burma', *Reports on the administration of civil justice for the year 1912* (Rangoon: Office of the Superintendent, Government Printing, 1913), p. 9.

<sup>90</sup>Warren Hastings and Alexander Higginson, 'A plan for the administration of justice, extracted from the proceedings of the committee of circuit, 15th August, 1772', in *Proceedings of the Governor and Council at Fort William, respecting the administration of justice amongst the natives in Bengal* (Calcutta: Fort William, 1774), p. 26.

to the Court of the Judicial Commissioner in Mandalay.<sup>91</sup> Soon after his appointment, he was considered for another promotion, but only because of the sudden death of a senior judge.<sup>92</sup> He did not get this job, but at least he was finally being considered as a possible candidate when such opportunities arose.

McColl remained in the position of additional judge in Mandalay for many more years (1909–1921) without further promotion, and was finally promoted to be the judge of the High Court of Judicature in Rangoon in 1922, two years before his death.<sup>93</sup> While serving as additional judge, McColl oversaw a large number of cases on ‘Burmese Buddhist Law’, more than all the other senior judges combined. Before appointing McColl to the Court of the Judicial Commissioner, George Shaw himself had been the one mostly entrusted with the task of dealing with Buddhist law matters.<sup>94</sup> However, as we have seen above, Shaw was really reluctant to engage with the *dharmathat* or Burmese language, much preferring to stay with case-law materials in English. After drafting McColl to the job, Shaw was able to part with such tedious and ‘thankless’ work and designate almost all such tasks to McColl instead.<sup>95</sup> Some may argue that the court might have designated McColl as the go-to person for such tasks, both as a relief for other judges and as a penalty for McColl the outcast. But Shaw himself certainly acknowledged McColl’s ability, and in 1911 even recommended McColl to officiate for him while he went on leave.<sup>96</sup>

As McColl stepped into the Court of the Judicial Commissioner of Upper Burma, he was aware that he was now at the helm of the highest legal authority in all of interior Burma, where people generally had a stronger cultural claim to authentic ‘Burmanness’ compared to coastal areas.<sup>97</sup> Therefore, McColl needed to demonstrate a high level of linguistic and cultural proficiency to adjudicate cases from this area. While English was still allowed in the Criminal Court in Upper Burma, the everyday working language of the Civil Court was, at least in theory, supposed to be Burmese.<sup>98</sup> Moreover, in addition to being a Burman cultural hinterland, Mandalay was also a vibrant plural society where many Indian lawyers had established their practices and professional reputations as capable advocates. These Indian lawyers, mostly Bengali or Parsi, had to obtain their legal professional licence from the Judicial Commissioner in order to practise.<sup>99</sup> However, it was perceived that Indian lawyers were often more capable

<sup>91</sup>*The India Office list for 1911*, p. 578.

<sup>92</sup>Death of Justice Moore; His successor’, *The Amrita Bazar Patrika*, Calcutta, 25 June 1909, p. 6.

<sup>93</sup>Venn (ed.), *Alumni Cantabrigienses*, p. 257.

<sup>94</sup>For example, see *Upper Burma rulings, 1904–06*, Civil, Vol. II (Rangoon: Office of the Superintendent, Government Printing, 1914).

<sup>95</sup>The description of such judicial work as ‘thankless’ is from White, *A civil servant in Burma*, p. 280.

<sup>96</sup>Enclosure No. 3. No.890-2M., dated Rangoon, the 26th February 1917. From—The Hon’ble Mr. W. F. Rice, C.S.I., I.C.S., Chief Secretary to the Government of Burma, Appointment Department, To—The Secretary to the Government of India, Home Department’, p. 3. In ‘Memorial from Mr H E McColl’.

<sup>97</sup>On a theory of Upper Burma (*anyā Myanmā*) as a place of Burman cultural authenticity, see Michael A. Aung-Thwin, *The mists of Rāmañña: The legend that was Lower Burma* (Honolulu: University of Hawai’i Press, 2005).

<sup>98</sup>Alleyne Ireland, *The province of Burma: A report prepared on behalf of the University of Chicago*, Vol. 1 (Boston: Houghton, Mifflin and Co., 1907), p. 183.

<sup>99</sup>The Upper Burma civil courts regulation, 1896’, *The Burma Code*, 4th edn (Calcutta: Superintendent Government Printing, India, 1910), pp. 276–277.



in Burmese than their British licensors. In the early 1900s, the Bengalis, given their proximity to the Bengal–Burma borderland, even established a publishing industry for Bengalis learning Burmese.<sup>100</sup> The court ruling documents also suggest that the written statements prepared and submitted by Indian lawyers sometimes also included Burmese writing.<sup>101</sup> These Indian lawyers—not a large number of them—were regular visitors to the Court of the Judicial Commissioner, who often travelled widely across Burma to meet their clients. Sometimes in the district-level courts, ‘adjournments hav[e] frequently to be granted to meet the convenience of Advocates from Mandalay and Rangoon’, which shows the professional prestige of this small group of Indian lawyers in Burma.<sup>102</sup> It was a tall order for McColl to project authority in front of them: since he was a long-term low-ranking judge in the regional courts, the well-travelled Indian lawyers must have known about his professional setback, and also his reputation for proficiency in Burmese. Therefore, McColl faced a real challenge both to exert his legal authority and to showcase his linguistic capacity in front of these Indian lawyers in the small, packed courtroom in Mandalay.

But meanwhile, probably more importantly, it was the central authorities of British India that McColl was trying to prove himself to. With his promotion to additional judge of the Court of Judicial Commissioner after 18 years of professional derailment, McColl finally got the arena to prove himself—and to prove others wrong. A proud Cambridge man of no modest origins, McColl was eager to show to the central authorities of British India that he meant business—that he was a capable officer wrongly faulted by political suspicion. Being a capable judge in Burma would be his grand vindication over the likes of Curzon—and everyone else who had spoken against him and his wife—whose adversarial attitude towards his interracial marriage had cost him much of the past two decades in pain, angst, and failure.

McColl’s scenario is reminiscent of a classic account of colonial administration in Burma—George Orwell’s famous essay ‘Shooting an Elephant’. As a low-ranking local officer in Moulmein, Orwell found himself surrounded by thousands of Burmese onlookers and, contrary to his own will, felt obliged to shoot an elephant at large to maintain an authoritative image of empire.<sup>103</sup> In an analysis of the colonial mindset, Ranajit Guha characterized Orwell’s predicament as one of ‘unfreedom’—an unfreedom articulated as ‘the colonialist’s [subjection] to native expectation about what he must do in order not to lose face’.<sup>104</sup> If we apply Guha’s insight to our analysis of McColl’s scenario, we see that McColl was undergoing a double-faced elephant-shooting experience: on one hand, he was immediately facing the colonized in his everyday work in court, who were all too ready to challenge him and manipulate his

<sup>100</sup>Parthasarathi Bhaumik, *Bengalis in Burma: A colonial encounter (1886–1948)* (London: Routledge, 2022), p. 85.

<sup>101</sup>For example, ‘Mi Me v. Nga On Gaing’, Civil appeal No. 305 of 1909. 11 May 1910. *Upper Burma rulings, 1910–13*, Vol. 1 (Rangoon: Judicial Commissioner of Upper Burma, 1914), p. 22.

<sup>102</sup>‘Upper Burma’, *Reports on the administration of civil justice for the year 1908* (Rangoon: Office of the Superintendent, Government Printing, 1909), p. 10. For another mention of almost exactly the same situation, see ‘Upper Burma’, *Reports on the administration of civil justice for the year 1910* (Rangoon: Office of the Superintendent, Government Printing, 1911), p. 12.

<sup>103</sup>George Orwell, ‘Shooting an elephant’, in George Orwell, *Shooting an elephant and other essays* (London: Penguin, 2003), pp. 31–40.

<sup>104</sup>Ranjit Guha, ‘Not at home in empire’, *Critical Inquiry*, vol. 23, no. 3, 1997, p. 492.

weakness to their own advantages; on the other hand, he was indirectly yet always facing the central authorities who suspected him politically and all those who belittled the Burma post and his Burmese connections.<sup>105</sup> For more than a decade, he constantly felt the ‘unfreedom’ of being watched and estranged, and he had to prove himself innocent and competent. He was both a ‘sinew of power’ and an imperial subject.<sup>106</sup> Caught in-between the central imperatives of rule and the local necessities of rule, McColl found himself a colonial ‘other’ to both sides—and he tried to rescue his own place by exerting his competence in colonial administration. McColl was an utterly unfree man.

After more than a decade in his position as additional judge, during which he oversaw a huge number of lawsuits related to ‘Burmese Buddhist Law’, McColl became the singular senior judge who had by far the greatest number of rulings on ‘Burmese Buddhist Law’. However, in 1916, McColl again realized that, despite all his work and achievements, he was still living in the shadow of political suspicion. In 1916, there was a short-term senior vacancy in the Chief Court of Lower Burma, to be selected from five divisional judges. McColl was the most senior of the available candidates, but the Government of India selected a junior over him for this position.<sup>107</sup> McColl was furious, and wrote the petition mentioned at the beginning of this article. Calcutta’s justifications were extremely trivial, citing the incident of McColl’s clash with his Burmese domestic cook over a matter of Rs 8 as evidence of his untrustworthiness.<sup>108</sup> In terms of professional competence, the Government of India only mentioned that McColl was ‘slow’ in his work, which, understandably, might have been because he was working extensively with Burmese language materials.<sup>109</sup>

What particularly infuriated McColl was that in the same appointment decision, an additional Burmese barrister Maung Kin was appointed judge of the Chief Court. He was angry not because he disliked the idea of a Burmese judge, but rather over the ambiguity of criteria for political trust, for who should be considered the ‘us’ of empire and who the ‘other’. After elaborating on all his professional qualifications and accomplishments and how both of his ‘half-blood’ sons had fought for Britain in the First World War, McColl concluded that there was no other possible explanation for his non-selection apart from his interracial marriage.<sup>110</sup> ‘A Burmese Barrister with a Burmese wife is officiating as a Judge of the Chief Court. Apparently Your Memorialist would have been eligible if he had been a Burman but is held ineligible because he is a Scotchman,’ McColl complained ironically. He continued in the strongest terms:

<sup>105</sup>Saha, ‘Whiteness, masculinity and the ambivalent embodiment of “British justice”’, pp. 527–542.

<sup>106</sup>Phrase borrowed from John Brewer, *The sinews of power: War, money and the English state, 1688–1783* (Cambridge, MA: Harvard University Press, 1990).

<sup>107</sup>‘Enclosure No. 1, No.1395-3-L-3, dated Rangoon, the 30th August 1916. From—The Hon’ble Mr. W. F. Rice, C.S.I., I.C.S., Chief Secretary to the Government of Burma, Appointment Department, To—The Secretary to the Government of India, Home Department’, p. 1. In ‘Memorial from Mr H E McColl’.

<sup>108</sup>‘Minute Paper’, pp. 1–2. In ‘Memorial from Mr H E McColl’.

<sup>109</sup>‘Enclosure No. 2’, p. 2. In ‘Memorial from Mr H E McColl’. The obsession with speed and efficiency was characteristic of nineteenth-century imperial bureaucracy in India, which often associated efficiency with impartiality, aloofness, and detachment. See Jon Wilson, ‘The temperament of empire: Law and conquest in late 19th-century India’, in *Subjects, citizens and law: Colonial and independent India*, (eds) Gunnell Cederlöf and Sanjukta Das Gupta (London: Routledge, 2017), p. 42.

<sup>110</sup>‘Enclosure No. 4. Through...To the Right Honorable Mr. Austen Chamberlain, Secretary of State for India. Dated, Mandalay the 7th February 1917’, pp. 3–5. In ‘Memorial from Mr H E McColl’.

'He thus has nearly 20 years purely judicial service which he believes is more than double the purely judicial service of the two Civilian Judges of the Chief Court and of any Civilian in Burma', yet 'he has been superseded by a junior Officer with less than half his experience. It would thus appear that Your Memorialist is deemed fit to do the same work as that of a Judge of the Chief Court but is not considered worthy to draw the same pay—because he has a Burmese wife.'<sup>111</sup>

This time, the Government of Burma did not come to the rescue of McColl. The new lieutenant governor of Burma, Sir Harcourt Butler, had recently arrived from the Government of India Viceroy's Executive Council after serving in India for 25 years. With Butler's extensive experience in Calcutta and Delhi, the Government of Burma now took a similar perspective to the central authorities. In a letter forwarding McColl's memorial, the Government of Burma discussed McColl's cook incident as 'a nagging mistress, discontented and often changed servants, and a master who let his natural annoyance warp his judgment', and said unequivocally that this was the basis for McColl's non-selection: 'In view of the recent proceedings against the cook, Sir Harcourt Butler would hesitate to entrust the control of those Courts to Mr. McColl.'<sup>112</sup> As if this condemnation was not clear enough, Butler reiterated his position against interracial marriages of British officers:

At the same time Sir Harcourt Butler desires to express his concurrence in the views stated in the memorandum which was issued in 1903 by Sir Hugh Barnes with the approval of the Government of India. It was there noted that an officer who marries a Burmese woman must as a rule diminish his fitness for European society, and that this limitation of his usefulness is likely to prevent him from occupying the higher posts of the service. This remark, in Sir Harcourt Butler's opinion, applies to Mr. McColl's marriage.<sup>113</sup>

As for Burmese barrister Maung Kin's appointment, the Government of Burma explained that it was to appease the rising nationalist sentiment in Burmese society:

His [Maung Kin's] appointment on the former occasion gave the greatest satisfaction among the Burmese throughout the Province. Now that a Burmese Barrister has shown his capacity, the Lieutenant-Governor thinks it most advisable, on political grounds, to appoint him ... Sir Harcourt Butler is most anxious on this occasion to meet the strong and universal desire among the Burmans that they should be represented by a Burmese Judge in the Chief Court.<sup>114</sup>

These remarks confirmed what McColl had suspected: he was considered politically untrustworthy and less politically useful than his Burmese counterpart. For a subordinate officer like McColl, the politics of colonial difference caught him in a position of double-unfreedom, as he lived under the suspicious watch of both his British superiors

<sup>111</sup>*Ibid.*, pp. 5–6.

<sup>112</sup>'Enclosure No. 3. ...dated Rangoon, the 26th February 1917', pp. 2–3. In 'Memorial from Mr H E McColl'.

<sup>113</sup>*Ibid.*, p. 3.

<sup>114</sup>'Enclosure No. 2', p. 3. In 'Memorial from Mr H E McColl'.

and the colonized Burmese and Indians. Although he married a Burmese woman and learned the language well, he was really, more than others, ‘not at home in empire’.<sup>115</sup>

### Conclusion: One man’s misfortune, or the structural contradiction of colonial rule

Due to his unignorable seniority in years of service in the judicial commission, McColl was finally promoted to the High Court of Judicature in Rangoon in 1922.<sup>116</sup> But because of his distinction in ‘Burmese Buddhist Law’, his presence was deemed more necessary in Upper Burma than in Lower Burma, so although he was appointed to the High Court in Rangoon, he was still stationed in Mandalay, a subordinate position compared to his Rangoon colleagues.<sup>117</sup> Despite all his efforts, McColl never had the chance to get close to the heart of political power in downtown Rangoon, and died young two years later at the age of 53.

The spectre of Ma Phyu overshadowed McColl’s story. However, this is more than a story of colonial anxiety over interracial conjugality. As mentioned above, McColl’s story reveals a general pattern of the spatial dynamics of imperial administration in British India that informed the specific practices of frontier governance. A sharp contradiction existed between the central authorities and the local bureaucracy with regard to political priorities. This contradiction was most evident in the spaces of colonial frontiers, where political (in)security and administrative utility were crucial to colonial rule yet often short in supply. The central authorities viewed the frontier area as a space of political uncertainty and danger, so they insisted on the hard-line principle of political certainty. For them, the primary political concern for governing the frontier was to control, command, and contain, so political loyalty was of utmost importance in their assessment of ICS officers. McColl’s marriage to a Burmese woman, especially in light of colonial stereotypes of the strong-charactered, manipulative, emasculating Burmese woman, invited him plenty of political suspicion, regardless of his own career achievements. McColl’s experience was far from a singular case, as other ICS officers married to Burmese women had also met with similar political suspicions, often in similarly implicit ways.<sup>118</sup>

Meanwhile, the local bureaucracy regarded the frontier area as a space of practical administrative difficulty due to linguistic and cultural unfamiliarity, so it prioritized these aspects of cultural competence and was more flexible and accommodating in its personnel arrangements. The local colonial bureaucracy in Burma was faced with the daunting daily realities of its administrative burden, while being significantly outnumbered by the Burmese litigants and overwhelmed by Burmese language-related judicial tasks. For them, the primary political concern for managing the frontier was to meet such administrative challenges, so linguistic competence was a precious, rare, and keenly sought-after asset among ICS officers. McColl’s high proficiency in Burmese, especially his mastery of the literary register, earned him high recognition from the

<sup>115</sup>Guha, ‘Not at home in empire’.

<sup>116</sup>‘The Rangoon High Court: Letters patent issued’, *The Tribune*, Lahore, Sunday, 26 November 1922, p. 3.

<sup>117</sup>‘News of the day: Mr. H. E. Maccoll’, *The Amrita Bazar Patrika*, Calcutta, Tuesday, 12 December 1922.

<sup>118</sup>Saha, ‘The male state’, p. 372, n. 120. I would like to thank Mitra Sharafi for bringing this reference to my attention.

local colonial bureaucracy. However, McColl's proficiency in Burmese was inseparable from his marriage to a Burmese woman, which had put him under political scrutiny by the central authorities and brought him immense professional misfortune. This difference in political priorities between the central and the local reflected the divergent political demarcations about who was 'us' and who was 'them', which in turn informed the different political decisions and practices at various levels of the imperial administration in British India.

This internal contradiction between security and utility, or between loyalty and competence, was more than a contingent one: it revealed the inherent structural contradiction of frontier governmentality in British colonial India. Although such a contradiction was more pronounced in the early days after the annexation of Upper Burma, when a reified colonial cultural formation of difference met an unruly administrative terrain in the Burma frontier, this tension had always existed and was not itself resolved with the coming of imperial hardliners like Sir Harcourt Butler. It was a structural contradiction between the 'imperative of control' versus 'how to control' beyond the circumstances or preferences of any specific individual. Taking a spatial perspective, this article brings imperial ideology and bureaucratic practice together in a most heightened manner in the colonial frontier, where issues of interracial conjugality became much more amplified and haunted the life of a British officer for decades. But at a theoretical level, this structural contradiction speaks to issues much broader than Burma itself. McColl's story, therefore, is not simply the story of McColl himself, nor is it an invitation to pity the man's misfortunes: it is a story of the inherent structural contradiction of colonial rule over frontier areas and its inability to overcome it.<sup>119</sup> Ma Phyu's spectre haunted colonialism, wherever colonialism went.

**Competing interests.** The author declares none.

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<sup>119</sup>This line of thought draws from Rebecca J. Scott, 'Small-scale dynamics of large-scale processes', *American Historical Review*, vol. 105, no. 2, 2000, pp. 472–479.

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