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For many early Americanists, legal pluralism might appear a somewhat remote topic from their research—without knowing more about it, the very label suggests a complexity likely to discourage the less curious. To some, laws of the past already seem like chess, a complex game understood in its intricacies by only a few. Indications that the game might have been played in three (or more) dimensions could drive off all but the most devoted, and that would be a shame, especially for those who missed the symposium entitled “New Perspectives on Legal Pluralism” hosted by the Newberry Library in 2010, where most of the essays in this volume originated. The particular aspect of legal pluralism that holds this collection together is jurisdiction—how individuals might either gain or lose legal advantages by changing the legal body that heard their appeal. Today, we might cynically call such actions “forum shopping” for a better venue; in the early modern period, changes in jurisdiction did not always happen voluntarily or with full knowledge of the consequences that might follow. For convicts, slaves, native peoples, corporation officers, and others, however, shifts in jurisdiction could have a powerful impact on their lives. Within the context of legal pluralism, issues surrounding jurisdiction could ultimately determine who held the upper hand, who could dispense justice, and what type of outcome one was likely to receive. As such, questions of jurisdiction go to the heart of imperial conflicts that were rife in the early modern period, making this volume on legal pluralism of particular interest to all who study power, empires, and the legal consequences of expansion.

Those unfamiliar with the concept of “legal pluralism” can start with the brief overview offered in Lauren Benton and Richard J. Ross’s introduction or dive to greater depths in Paul D. Halliday’s reflections upon the term’s history, varied disciplinary usage, and current possibilities. Halliday explains the evolving utility of the term for Africanists engaged in both postcolonial analysis and nation building, which gave legal sociologists and anthropologists a means to examine overlapping and sometimes contradictory legal norms within a social field. Halliday sums up a long-standing difficulty with this topic: if law in the context of legal pluralism describes norms and self-regulation in a semiautonomous social field, “then just what is law? More to the point, what isn’t law?” (264). One can attempt to distinguish state-made norms from all others, but legal pluralism need not correlate to a progressive view of state formation or demand the existence...
of a state at all. Focusing upon jurisdiction, as Benton and Ross do in this collection, elides the problem of a state or nonstate focus. In either case, contested norms could be used to either reinforce or undermine authority. The plurality of legal rules in colonial settings allowed some people—often the marginalized—to exploit gaps or inconsistencies for their own benefit. For officials (within the colony, corporation, or metropole), the options generated by multiple legal norms could create frustration and internal conflict, or spur a drive toward greater consistency. These overlapping, sometimes contradictory legal expectations, often pitting local customs against colonial regimes against imperial directives, set the stage for numerous jurisdictional showdowns, a recurrent theme of this collection.

In the first set of essays, gathered under the heading “Composite Polities across Empires,” Philip J. Stern and Helen Dewar explore how legal pluralism played out in the context of early modern corporations or competing commissions of authority (English and French). These entities collected taxes, made laws, and ran courts that had jurisdiction over indigenous people and European colonizers alike, but they were more than private extensions of the state. Chartered corporations also had their own “claims to property, rights, and immunities at law that generated claims to jurisdiction, allegiance, and subjects and citizens” (21). Because these corporations functioned independently of the crown at the local level while simultaneously remaining imperial subjects, legal pluralism and jurisdictional conflict were rooted in the very nature of overseas exploration. Idealized legal models might brand chartered groups as subservient to the crown, but Stern examines how trading and settlement companies typically operated within a mélange of palatine and corporate traditions. And corporate representatives—mayors, aldermen, registrars, and militia captains—could fall afoul of colonial and royal officials just as easily as indigenous peoples did. Legal pluralism began at home, with the existing patchwork of customary law, corporate privilege, and local, national, and ecclesiastical legal regimes. Among those working overseas, corporate groups created order, even if their efforts did not entirely establish European domination: local circumstances permitted individuals legal recourse beyond what the law technically offered. Entrenched legal battles in imperial centers could find new battlegrounds, Dewar makes clear, as powerful commissioned individuals used their direct relationship to the king to fight anew for expanded privileges in colonial settings. Distance from the metropole gave local leaders/tyrants opportunities to exploit their power or develop customs that might be at odds with monarchs far away. Jurisdictional disputes about slaves and convicts are also explored in the last group of essays in this collection, grouped under the heading “Constructing Imperial Jurisdiction.” The coverage ranges from New Zealand (P. G. McHugh)
and the Spanish and Dutch Caribbean (Linda M. Rupert) to New South Wales and the Leeward Islands (Benton and Lisa Ford). Benton and Ford demonstrate that contending forces in many parts of the British Empire ultimately led to calls for reformation of the magistracy and that these demands for reformation deserve greater and more detailed study from scholars in the future. Metropolitan leaders sometimes feared the seemingly arbitrary behavior of local authority figures more than convicts and slaves, a lesson comparable to what Malick W. Ghachem has uncovered for the French Caribbean. Cessions of sovereignty by native peoples, even as late as the nineteenth century, connected to existing and continuing problems of pluralism and imperial control, as McHugh makes clear in his essay on the Maori and the 1840 Treaty of Waitangi. In an essay on the tangled problems of inter-imperial jurisdiction and slaves fleeing from Curacao to Venezuela, Rupert tackles the double problem of enslaved individuals crossing imperial lines in search of freedom and how their movement forced two empires to respond to pluralism on the ground. Marronage thus created what Rupert terms a “transimperial legal zone” (9). This framework, with ramifications for other regions where two or more empires abutted, makes this essay a must-read for those who work on slaves escaping bondage.

The unity that binds the first and last sections together (corporate bodies and commissioned authorities, slaves and convicts) is somewhat missing in the middle set of essays, gathered under the heading “Political and Religious Imagination.” These essays highlight aspects of legal pluralism in the Spanish and Ottoman Empires, as well as among early modern European religious and legal commentators. Brian P. Owensby examines two competing points of view (represented by three Spanish documents from the early eighteenth century), one favoring greater indigenous power within the empire, the other suggesting the opposite. The debate reveals an intellectual tug-of-war within the Spanish Empire, one that pitted colonizing and colonized individuals against each other as each sought greater power. The Nuevo Sistema urged that indigenous subjects become “useful” vassals by focusing upon their economic roles within the empire, while the countervailing documents (the Breve y compendiosa satisfacción and the Representación verdadera y exclamación) demanded that native peoples be given greater authority to rule themselves, based upon their roles as subjects of a benevolent monarch. New depictions of indigenous peoples—nearly 250 years post-Columbus—on both sides would require imperial authorities to reevaluate the existing legal balance of power. The

choices were inflected with new terminology of the period that emphasized the economy as well as changing notions of subjecthood. Owensby’s essay reminds the reader that, with the passage of time, legally plural situations could not only evolve but also run headlong into new intellectual currents—making an already tangled situation that much more complex. Karen Barkey’s essay on the multifaceted Ottoman Empire emphasizes how legal pluralism gave non-Muslim subjects greater jurisdictional choices, while easing group tensions and promoting accommodation among diverse religious groups living together. Her work demonstrates that plural societies need not automatically become hives of conflict but could enjoy greater cohesion while cultivating the “perception among non-Muslim subjects that they, too, had fair access to justice” (84) in the Ottoman court system. Her discussion of sharia law in the context of pluralism is a strong piece of scholarship that sits somewhat oddly next to Owensby’s analysis of economic thought and Ross and Stern’s essay “Reconstructing Early Modern Notions of Legal Pluralism” (which ranges from Hebrew thought and social contract theory to custom, the law merchant, and the political economy of families). Ultimately, Ross and Stern conclude that the centralization of authority within empires—a common theme in the state formation story—need not have been antagonistic to pluralism, for legal pluralism predated state formation and responded to “similar problems . . . [with] related vocabularies” (132).

The essays in this collection significantly advance our thinking on the subject of legal pluralism in the context of jurisdictional issues and early modern empires, even as the shifting settings (Ottoman Empire, New Zealand, Venezuela, Spain, France, and the Caribbean) and a lengthy period of coverage make generalizations difficult. Sensitivity to the historical context of these legal pluralisms remains key. It is a challenge to keep the focus off the state when considering legal pluralism, almost as difficult to resist as the impulse to endow every nonstate custom with liberating, empowering value. Plural choices, legally, need not always end up favoring the underdog; range of choice did not necessarily equal liberation or a sincere respect for difference but could simply be an adaptive strategy designed to increase imperial longevity and dominance (as Barkey’s essay makes obvious). Legal pluralism waxed and waned, another essential element woven through Legal Pluralism and Empires, and the use of pluralism as a tool of imperial control is one that more scholars should acknowledge (as Jane Burbank and Frederick Cooper emphasize in the concluding essay). For those seeking illumination on subjects such as sovereignty, jurisdiction, indigenous peoples and the rules affecting them, slaves and maroonage, as well as economic, religious, and political thinking related to imperial governance, this volume will repay close reading.