HOME RULE: EQUITABLE JUSTICE IN PROGRESSIVE CHICAGO AND THE PHILIPPINES

The evolution of the US justice system has been predominantly parsed as the rule of law and Atlantic crossings. This essay considers courts that ignored, disregarded, and opposed the law as the United States expanded across the Pacific. I track Progressive home rule enthusiasts who experimented with equity in Chicago and the Philippines, a former Spanish colony. Home rule was imbued with double meaning, signifying local self-governance and the parental governance of domestic dependents. Spanish and Anglo American courts have historically invoked equity, a Roman canonical heritage, to more effectively administer domestic dependents and others deemed lacking in full legal capacity, known as alieni juris or of another’s right. Thomas Aquinas described equity as the virtue of setting aside the fixed letter of the law to expediently secure substantive justice and the common good. In summary equity proceedings, juryless courts craft discretionary remedies according to the dictates of conscience and alternative legal traditions—such as natural law, local custom, or public policy—rather than the law’s letter. Equity was an extraordinary Anglo American legal remedy, an option only when common law remedies were unavailable. But the common law was notably deficient in the guardianship of alieni juris. Overturning narratives of equity’s early US demise, I document its persistent jurisdiction over quasi-sovereign populations, at home and abroad. Equity, I argue, is a fundamental attribute of US state power that has facilitated imperial expansion and transnational exchange.