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Bensalem's Legal System by Francis Bacon (*New Atlantis*) and James I (*True Law*): Representations of God, kingship, knowledge and peace.

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This paper compares Bensalem's legal system in Francis Bacon's New Atlantis with James I's True Law tract. Whilst differing in form – fiction and political tract – both artefacts unite in their belief that the people should be ruled by an enlightened, absolutist, legal framework. In addition, this paper also analyses a Simon de Passe engraving that, echoing the aforementioned works, represents an early seventeenth-century Jacobean Britain, marked by royal absolutism, which was justified by God's delegation of earthly authority to the king. Yet, this absolutism was moderated by a search for knowledge and peace.

Francis Bacon wrote *New Atlantis*, a utopian moral and scientific tale, around 1624.¹ This period was at the end of Bacon's life and career as a philosopher and politician.² Bacon was appointed to high legal positions by James I of England and VI of Scotland. *New Atlantis* tells the story of Bensalem, a happy island inhabited by an old civilisation of chaste, peaceful and obedient people ruled by a monarch and an elite of sages. The people of Bensalem would become Christians shortly after the death of Jesus.³ Remarkably, knowledge is the basis of welfare of Bensalem, whose rulers would guide the population in the management of such knowledge. Bensalemites acquired knowledge

¹ Francis Bacon, 'New Atlantis' in *New Atlantis and The Great Instauration*, ed. by Jerry Weinberger (Oxford: Wiley Blackwell, 2017), p. xiii.

² Lisa Jardine and Alan Stewart, *Hostage to Fortune, The Troubled Life of Francis Bacon 1561-1626* (London: Orion Books Ltd, 1988).

³ *New Atlantis*, p.73.

from natural research on the island, or from information obtained in travels to foreign countries.⁴ Additionally, Bensalem's rulers would provide a Christian and moral orientation for a people who were naturally inclined to virtuous behaviour.⁵ Accidentally, a group of European sailors arrived at Bensalem and witnessed the religious, moral and economic foundations of this unknown island.⁶

Significantly, Francis Bacon did not complete *New Atlantis* and critics have highlighted that he had not proposed a legal system for Bensalem.⁷ Thus, Bacon's secretary, Rawley, wrote in the preface to *New Atlantis* that 'His Lordship thought also in this present fable to have composed a frame of Laws [...] but foreseeing it would be a long work, his desire of collecting the Natural History diverted him, which he preferred many degrees before it'.⁸

In 1660, more than thirty years after Bacon's death, an unknown author published a second part of *New Atlantis*, setting forth *A platform of Monarchical Government*, which intended to complete Bacon's work with a legal system for Bensalem.⁹ Moreover, James I, Bacon's long-time patron, had made specific legal proposals of significant importance for the governance of his kingdoms.¹⁰ Finally, Bacon's career in the English public sector was a succession of high ranking legal positions at the service of King James I.¹¹ This article makes a proposal as to what Bensalem's legal system was or should be interpreted to be.

Firstly, this article will identify the elements in *New Atlantis* that provide a primary source of leads concerning Bensalem's legal system. Secondly, it will explore Bacon's legal thought in a selection of other texts that he authored. Thirdly, this article will examine the fundamentals of James I's legal ideology that sustained his monarchy and his relationship with his people, through a primary source artefact: James I's 1598 tract: *The True law of Free Monarchies*.¹² Finally, this paper will display an engraving by Simon de Passe, which is representative of the legal fundamentals underlying the kingdoms of James I and Bensalem.

New Atlantis contains numerous legal elements that are either explicit or implicit in the text. These elements show the reader some fundamental aspects of Bensalem's legal system. Firstly, its legal

⁴ *New Atlantis*, p.85.

⁵ *New Atlantis*, pp.93-5.

⁶ *New Atlantis*, pp.63-5.

⁷ *New Atlantis*, p.111.

⁸ *New Atlantis*, p.62.

⁹ R.H., *New Atlantis Begun by the Lord Verulam, Viscount St. Allans: and Continued by R.H. Esquire wherein is set forth A Platform of Monarchical Government* (London: 1660), EEBO, Early English Books Online, British Library, <http://ezproxy-prd.bodleian.ox.ac.uk:2176/search/full_rec?SOURCE=pgimages.cfg&ACTION=ByID&ID=V170383> [accessed 17 Dec 2017].

¹⁰ James I, King of England, 1566-1625, *The True Law of the Free Monarchies; or The Reciprocal and Mutual Duty Betwixt a Free King and His Natural Subjects in The Workes of the most high and mightie Prince, James ... King of Great Britaine, France and Ireland* (London: Robert Barker and John Bill, 1616)..

¹¹ Jardine and Stewart, *Francis Bacon*, pp. 159-70, 296, 340-1, 393, 396, 416.

¹² *James' Workes*, p.10.

culture is inspired by the Greco-Roman and Judeo-Christian cultures. While it is true that *New Atlantis* makes indirect references to other cultures such as China or the pre-colonial Americas, these references to other non-Western cultural traditions reinforce the superior Western identity of Bensalem. Thus, the Chinese law on foreigners had made China ‘a curious, ignorant, fearful, foolish nation’, and the Native Americans are described as ‘simple and savage’.¹³ Therefore, Bensalemites are fundamentally European in culture. In addition, Bensalem takes the monarchy as its form of government. Certainly, *New Atlantis* has very few references to the monarch, and yet, Solamona, a wise king, marked Bensalem’s people past, present and future.¹⁴ Importantly, Bensalem’s monarchs would, shortly after the death of Jesus, become Christian monarchs, thereby adding a divine mandate to their legitimacy, which was vested in the selected people of Bensalem and its monarchs by a heavenly miracle that occurred with the intercession of St. Bartholomew.¹⁵ Therefore, this legal system is founded on Christian values, which would also be a typical feature for a seventeenth century western State. Naturally, the Christian nature of the State has important legal implications as to what the law authorises or not in many aspects of public and private life.

New Atlantis depicts a monarchy that neither is representative nor interacts with the elected representatives of the people. Rather, Bensalem is a monarchical theocracy where an elite of wise priests guide, morally and materially, peaceful Bensalemites.¹⁶ Thus, Bensalem is an enlightened, but also despotic, theocratic monarchy. The society is divided into classes, including an absolutist monarch, a college of priests, governors and people.¹⁷

In civil law, Bensalemites are subject to conservative Christian moral rules with State-supported incentives for marriage and progeny.¹⁸ Thus, Bensalem is a chaste and morally pure society in contrast to the allegedly corrupted and socially disordered old Europe.¹⁹

Bensalem's economy is essentially a State-driven cooperative process towards the acquisition and management of knowledge.²⁰ Additionally, Bensalem's economy is protectionist since it is based on restrictive trade laws, protecting its domestic market with a strict enforcement of secrecy laws.²¹ Whilst Bensalem does not allow foreign merchants access to the island, it has a design to secretly extract knowledge and wealth from foreign countries.²² Therefore, Bensalem’s trade policy can be said

¹³ *New Atlantis*, pp.78-9, 81-3.

¹⁴ *New Atlantis*, p.82.

¹⁵ *New Atlantis*, pp.73-6.

¹⁶ *New Atlantis*, pp.71, 84-5, 88.

¹⁷ *New Atlantis*, pp.71, 74, 82, 88, 95-6.

¹⁸ *New Atlantis*, p.87-90, 93.

¹⁹ *New Atlantis*, p.93.

²⁰ *New Atlantis*, p.98-110.

²¹ *New Atlantis*, p.77.

²² *New Atlantis*, pp.82, 77, 85.

to be unilateral. Possibly, the negative side effects of protectionist unilateralism in terms of economic stagnation are moderated by Bensalem's sophisticated efforts to foster domestic innovation by rewarding individual efforts.²³ The latter contains the seeds of an intellectual property law policy.

Importantly, Bensalem reserves a strong role for the public sector. The kingdom has a bureaucracy that is made of irreproachably honest civil servants who would never accept a bribe or engage in any inappropriate behaviour against the general interest.²⁴ Thus, Bensalem's State is interventionist not only in the economy, but also in the education and private life of its citizens.²⁵ The kingdom can also punish citizens who break the law.²⁶

A corollary of Bensalem's trade policy is its immigration policy. Whilst generally closed to foreigners, those who accidentally arrive on the island are integrated because they are considered to bring added value to Bensalem's society.²⁷ Against this backdrop, Bensalem publicly funds immigration centres.²⁸

Finally, Bensalem is a uniform Christian community. However, *New Atlantis's* Jewish character, Jobin, seems to be tolerated because he is valuable to Bensalem, and adjusts to certain tenets of the Christian faith, namely devotion to Jesus Christ. Moreover, Jobin is portrayed as the model Bensalemite: a wise, entrepreneurial, religious and benevolent citizen. Interestingly, Jobin is both a merchant and a lawyer, which is consistent with the customs of this harmonious, happy island where the acquisition of wealth through technocratic management must be combined with a moral-religious foundation, and consensual rules to preserve peace and social order.²⁹

Besides *New Atlantis*, Bacon's legal texts offer additional valuable information on the legal system that should govern Bensalem. Bacon had a long career as a lawyer of James I, holding key legal positions, such as Attorney-General (1613) and Lord Chancellor (1618).³⁰ Unsurprisingly, Bacon's legal schemes are those of a high-ranking official serving James I because 'I [Bacon] have been ever your man, and counted myself but an usufructuary of myself, the property being yours:...'.³¹ Consequently, Bacon would support the absolutism of James I including the divine nature of his powers and duties. Thus, Bacon enthusiastically praised James I's *True Law* tract in *The Advancement of Learning* by paraphrasing him, saying that, 'Kings ruled by their Laws as God did by the laws of

²³ *New Atlantis*, pp.109-110.

²⁴ *New Atlantis*, pp.65, 67, 69.

²⁵ *New Atlantis*, pp.87, 95.

²⁶ *New Atlantis*, pp.89, 95, 108.

²⁷ *New Atlantis*, pp.82-4.

²⁸ *New Atlantis*, pp.67, 71.

²⁹ *New Atlantis*, pp.91-2.

³⁰ Brian Vickers, 'Introduction', in *Francis Bacon: The Major Works*, ed.by idem (Oxford: Oxford World's Classics, 2008), p. xlvii.

³¹ Bacon, 'Letter to King James I', in *The Major Works*, pp.326-328 (p.327).

nature, and ought as rarely to put in use their supreme prerogative as God doth his power of working miracles'.³² Furthermore, Bacon found the tract to epitomise 'the duty of a king: a work richly compounded of divinity, morality, and policy [...]'.³³ Importantly, James I and Bacon agree in a patriarchal vision of monarchs who, similar to 'a Moses or a David, [are] pastors of their people'.³⁴ Furthermore, Bacon shared his vision of monarchy in the *Essays*:

All precepts concerning kings are in effect comprehend in those two remembrances; "memento quod es homo"; and "memento quod es Deus", or "vice Dei", the one bridleth their power, and the other their will.³⁵

Interestingly, Bacon had already anticipated the positive value of secrecy that is omnipresent in Bensalem because, he writes:

Government, it is a part of knowledge secret and retired, in both these respects in which things are deemed secret; for some things are secret because they are hard to know, and some because they are not fit to utter. We see all Governments are obscure and secretive.³⁶

The unity of religion against the risks of social dilution and civil unrest is a second example where Bacon's writings are consistent with themes in *New Atlantis*. Thus, Bacon asserted that, 'Religion being the chief band of human society, it is a happy thing when itself is well contained within the true band of Unity'.³⁷

In sum, Bacon's legal proposals throughout his political and philosophical career are coherent with Bensalem's constituent legal elements.

Equally, concerning moral matters translated into laws, Bacon had advanced his support marriage when he praised the policy of King Philip IV of Spain in favour of marriage and procreation as one example 'Of the True Greatness of Kingdoms and Estates'.³⁸ Bensalem's *feast of the family* is consistent with Bacon's vision.³⁹

Whilst Bacon worked as a legal advisor within the English common law, he showed his admiration for Roman Law, the roots of most of Continental European civil legal systems. For instance, Bacon appreciated the Roman management of foreigners through the process of naturalisation, *ius civitatis*, that would have facilitated the expansion and control of the immense Roman Empire.⁴⁰ In this

³² Bacon, 'The Advancement of Learning' in *The Major Works*, pp.120-300 (p.253).

³³ Bacon, 'The Advancement of Learning' in *The Major Works*, p.252.

³⁴ Bacon, 'The Advancement of Learning' in *The Major Works*, p.253.

³⁵ Bacon, 'Of Empire', in *The Major Works*, pp.376-379 (p.379).

³⁶ Bacon, Bacon, 'The Advancement of Learning' in *The Major Works*, p.286.

³⁷ Bacon, 'Of Unity in Religion', in *The Major Works*, pp.344-347 (p.344).

³⁸ Francis Bacon, 'Of the True Greatness of Kingdoms and Estates', in *New Atlantis and The Great Instauration*, ed. by Jerry Weinberger (Oxford: Wiley Blackwell, 2017), p.126.

³⁹ Bacon, *New Atlantis*, pp.87-90.

⁴⁰ Bacon, 'Of the True Greatness of Kingdoms and Estates', p.125.

regard, Bensalem is ambivalent because the island remained hidden and closed to foreign immigration while it practised a policy of integration of those foreigners who reached Bensalem. In the same vein, the Father of the House of Solomon will authorise the foreigner in Bensalem to share the knowledge that the sailors acquired in Bensalem for, ‘I give thee leave to publish it for the good of other nations [...]’.⁴¹

Finally, it is relevant to acknowledge the fundamentals of James I’s legal ideology because Bacon could not, given his public functions at the service of James I, contradict his king’s policies. This consistency between king and civil servant is reinforced by Bacon’s personal circumstances surrounding the period when *New Atlantis* was drafted.⁴² Indeed, Bacon was trying to win back the king’s favour after he fell into disgrace following his condemnation on charges of corruption. Against this background, Bacon’s legal positions were necessarily predetermined by James I’s institutional legal proposal that was solidly established in the king’s 1598 *True Laws* tract.⁴³ In addition, Rawley reminded us that Bacon wanted to be effective in his proposals because ‘things therein are within men’s power to effect’.⁴⁴ Obviously, Bacon could have not been effective if he had gone against James I’s understanding of what the legal system should be.

The above realities are expressed in an engraving by Simon de Passe that depicts James I. This engraving is in the Scottish National Portrait Gallery. James I is dressed with all the attributes of an absolutist king, enjoying divine legitimacy. Thus, the crowned king sits on his throne, dressed luxuriously in ermine; his royal jewels include the orb with a cross at the top representing Christ the King governing the globe through his royal representative, and the sceptre expresses the king’s earthly powers. Above the throne is James’s legend, ‘*Beati Pacifici*’ (‘Blessed are the Peacemakers’), which corresponds with the kings’ aversion to war, and with the remarkably peaceful Bensalemmites. Finally, the bottom of the drawing includes the following inscription:

Crowns have their compass—length of days their date—
Triumphs their tomb—felicity, her fate—
Of nought but earth can earth make us partaker,
But knowledge makes a king most like his Maker.⁴⁵

⁴¹ Bacon, *New Atlantis*, p.111.

⁴² Brownen Price, ‘Introduction’, in *Francis Bacon’s New Atlantis New Interdisciplinary Essays*, ed.by idem (Manchester: Manchester University Press, 2002), p. 1; Jardine and Stewart, *Francis Bacon*, pp. 444-501.

⁴³ Additionally, James I representation by Simon de Pass can be found in the frontispiece of the folio publication of James’ *Workes* (1616) shown in the British Library <<https://www.bl.uk/collection-items/the-true-law-of-free-monarchies-by-king-james-vi-and-i>> [accessed 08 Jan 2018].

⁴⁴ *New Atlantis*, p.62.

⁴⁵ John Payne Collier, ‘The Life of William Shakespeare’ in *The Works of William Shakespeare* (New York: Redfield, 1853), p. liii. <<https://babel.hathitrust.org/cgi/pt?id=loc.ark:/13960/t12n5n850;view=1up;seq=9>> [accessed 18 Dec 2017].

Indeed, James I shared with Bacon and Bensalem his passion for the acquisition of knowledge as part of the exercise of power, while despising as ephemeral the fruits of war. For Bacon, ‘Human knowledge and human power meet in one; for where the cause is not known the effect cannot be produced. [...]’.⁴⁶



Figure 1. Simon de Passe, *James VI and I, 1566 - 1625. King of Scotland 1567 - 1625. King of England and Ireland*, c.1620, Line engraving on paper, 24.76 x 17.14 cm, Scottish National Portrait Gallery © National Galleries of Scotland.

⁴⁶ Francis Bacon, ‘Aphorism III’ in *Novum Organum*, trans. by R. Ellis and James Spedding (London: G. Routledge) p. 60, <<https://babel.hathitrust.org/cgi/pt?id=pst.000020352998;view=1up;seq=11>> [accessed 19 Dec 2017].

In conclusion, Bensalem reveals, sometimes expressly and sometimes implicitly, the fundamentals of a legal system that is consistent with mainstream legal imperatives in early seventeenth century Jacobean Britain. Bensalem's legal system is not innovative. Indeed, Bensalem is a traditional Christian monarchy where a monarch and established elite find their ultimate authority and powers in God. The rules governing Bensalem's social and individual life are conservative, namely based in a Christian moral vision that includes the regulation of marriage and family. Furthermore, Bensalem is a hierarchical society where the population is separated by either their public civil or religious functions, or their private roles. However, there is a latent meritocracy in Bensalem stemming from individuals' research skills that establish incentives and rewards for innovation. Generally, the economics of the island are protectionist and autarchic. Additionally, Bensalem's population seems to peacefully and harmoniously live in this isolated island under the paternalist rule of an enlightened but despotic elite. Thus, Bensalem's legal reality is not far from James I's *True Law* design, where obedience to the king is natural, given that he is God's 'lieutenant' on earth and a 'father' for his people.⁴⁷ Consistent with this, Simon de Passe represented the typical legal constructions of royal absolutism that can be applied both to the kingdoms of James I and to Bacon's utopia. This was a royal absolutism where the potential for tyranny was moderated by policies of peace, cultural enlightenment, and the king's conscience, reminding him of his moral duties towards the people.

⁴⁷ James, *Workes*, p.195.

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