



Julia Anne Stephens. *Governing Islam: Law, Empire, and Secularism in South Asia.* Cambridge: Cambridge University Press, 2018. xiii + 220 pp. \$28.99, paper, ISBN 978-1-316-62628-3.

Reviewed by David Gilmartin

Published on H-Asia (May, 2019)

Commissioned by Sumit Guha (The University of Texas at Austin)

The nature and meaning of “secularism” has been a subject of debate in the history of South Asia—and elsewhere—for many decades. Once seen by many scholars, and by many of India’s early leaders, as a bulwark against the spread of “communalism” and religious intolerance, it has in recent years been increasingly analyzed by many scholars as a structure of thought deeply complicit in the production of the very forms of religious thinking, and religious mobilization, that it has sought to politically contain. Julia Stephens’s new study of secularism’s South Asian roots in the structure of nineteenth-century British colonial legal governance falls very much within this contemporary trend in critical thinking about “secularism.” The overall story she tells is of a tradition of “secular governance” developed by the British as a foundation for authoritarian governance, whose effects have left a deep and continuing imprint on the position and politics of South Asian Muslims in India, Pakistan, and Bangladesh alike. Though a range of South Asian Muslim thinkers have, in a variety of creative ways, sought to challenge the underlying contours and assumptions of the “secular” regime the British constructed, the overall message of her book is of the tenacious continuities in structures of thinking about religion (and particularly about Islam) that have grown out of this colonial tradi-

tion, and which continue to influence the political fate of Islam in all these South Asian countries.

This is not an entirely new story, for the British development of a particular form of “secularism” as a legal foundation for the colonial regime—and its association of Islam with a distinct regime of “personal law”—has been much discussed before. But what gives Stephens’s book its vitality as a powerful new contribution is the simultaneous incisiveness and nuance of its argument. The overall argument is effectively summed up in the book’s introduction. The British construction of a regime of “secular governance” was built on the British conceptual opposition between their own approach to law, which they projected as rational and universalizing, and that embodied in Muslim law, which they viewed as “irrational” in its entanglement with religion and particularistic in its application only to the Muslim community (p. 16). This opposition was not peculiar to Muslim law (for it shaped British relationships to Hindu law as well), but Stephens sees the opposition of British rationality to the irrationality of Muslim law as peculiarly central to the secularism of the colonial project. Given this frame, Anglo-Muhammadan law, a system incorporating Muslim law into a structure of British court procedure, developed preeminently as a system divorced from the “rational” worlds of economics

and administration, and defined instead by its relationship to the “domestic” and—significantly—to matters relating to women. Moving well beyond the archive of colonial court cases, she tracks both the intellectual consequences of this construction, and—central to her argument—the complex and often surprising ways this structure actually played out in Muslim society. As a student of legal history, Stephens is deeply attuned both to the importance of law in defining structures of power and domination, and to the law as an arena of struggle, a product of its negotiations as much as its formal structure.

The heart of the book thus lies in a discussion of the complexities of this system as an arena of practice, subsuming issues of marriage, property, custom, and ritual. A key element in her analysis is to find in the contradictions in British understandings of the law the openings for Muslim actors to creatively play the system. British efforts to separate the realm of personal law from the “rational” realm of economics were thus continuously transgressed in practice, as contradictions in the thinking of the British themselves were manipulated by Muslim litigants, including, as she emphasizes, many women. The ambiguities in British policies were perhaps nowhere more clearly in evidence than in British legal treatments of the question of “custom.” British efforts to define a distinctive realm of customary law, as they did in some places (notably the Punjab), showed the ways that contradictory British structurings of the law were sometimes driven by their own interests, even in the face of logical contradictions. In the case of custom, the juxtaposition of customary law against Muslim law was a product, as Stephens sees it, of the British concern in the Punjab to mobilize multiple visions of patriarchy in order to undergird a colonial agrarian economy based on the family exploitation of female labor. But the ambiguities in the system nevertheless opened the doors for litigants to creatively manipulate the law. In this case, the colonial juxtaposition of “custom” as a system distinct

from Muslim law, also allowed many Muslim reformers to challenge the colonial framing of Muslim law as the “irrational” other to British colonial law, by casting it as the more rational, enlightened alternative to the truly “irrational” claims of customary law, supported by the colonial state (though Stephens gives far less emphasis to this ideological aspect of the juxtaposition of Muslim and customary law than one might have expected).

Stephens’s most important argument about the political consequences of the colonial structure of “secular governance” derives from her analysis of its impact on political conceptions of Muslim community. The background for this is provided by her careful analysis of the law’s intersection with Muslim ritual and with increasingly sectarian Muslim debates about *taqlid* and *ijtihad* in defining the foundations of authority in the community. In their impact on Muslim debate and organization, British legal structures played a highly contradictory role here too, whose consequences, as Stephens sees it, reverberated in twentieth-century Muslim politics. The structure of colonial law presumed a unitary vision of Muslim law associated with a vision of a unitary Muslim community. However variable the law’s actual operation, the impact of this presumption on the Muslim imagination was powerful. But at the same time, as was most dramatically evident in the seemingly hands-off British approach to the adjudication of sectarian ritual conflict, the law offered no institutional framework for the “community” to define or maintain the foundations of its unity. As Stephens notes, the structure of “secular governance” was built on this contradiction. Within this framework, the Muslim community had become, as she puts it, a “category” rather than a “unit” of governance (p. 107), thus leaving the community devoid of institutions of self-governance even as the imagining of a unitary community became an issue of increasing popular political fixation.

This dilemma of Muslim governance provides the primary frame for Stephens's excursion into twentieth-century politics in the last third of the book. Even while some Muslim intellectuals sought to challenge the isolation of Muslim law to the realm of the "personal" and "domestic," reimagining its relationship to economics, administration, and to social justice, Muslim politics were profoundly constrained within the framework of colonial governance by the inability to translate visions of "Muslim unity" into institutional terms. The result was a politics defined by symbolic public assertions of unity (whether in the legislative passage of a Shariat Application Act, or in the mobilization of "Muslim sentiment" in a popular defense of the Prophet in the Rangila Rasul controversy) which in practice did little to pragmatically unify the community while in the eyes of the British (and many Hindu leaders) only reinforcing the vision of Muslim "irrationality" that had long defined the legal structure.

Still, while brilliantly laying out some of the political impacts of the contradictions in colonial "secular governance," Stephens, in the end, offers little compelling argument in this last section of the book as to how these contradictions help us to understand the denouement of colonial rule. This is probably because her final chapters do not fully engage with the changes in the structure of politics that marked the late colonial era, nor with the dynamics of the movement that led to partition and the creation of Pakistan. Perhaps most importantly, there is little discussion of the ways that the vision of Muslim "irrationality" associated with the colonial structuring of law operated in the context of increasing democratization (and of the international spread of ideas focused on the sovereignty of the "people"). Given the focus of her study, it is surprising that Stephens devotes so little attention here to the deep-seated distrust of the "irrational" Muslim masses found in the ideas of many elite Muslim leaders themselves during this era, including many of the ulama.

Nevertheless, Stephens's book is eminently successful in her main concern: to illustrate the creativity and diversity of Muslim efforts to turn the structures of the colonial legal order to their own purposes, mobilizing visions of social justice even as the structure of "secular governance" gave powerful shape to the construction of a deeply patriarchal order. Her contribution to this critical story is significant and will engage the attention of scholars of both colonial law and politics for some time. But the implications of this history for the future, which she gestures toward at the end of her book, are perhaps less clear. Even as she projects her story of creative adaptation as one of hope for ongoing challenges to the dichotomies on which colonial law was built, the continuing power of the colonial tradition of "secular governance"—and the failure of South Asian Muslims to develop effective structural and political alternatives—is perhaps the most powerful message that her book conveys.

If there is additional discussion of this review, you may access it through the network, at <https://networks.h-net.org/h-asia>

Citation: David Gilmartin. Review of Stephens, Julia Anne. *Governing Islam: Law, Empire, and Secularism in South Asia*. H-Asia, H-Net Reviews. May, 2019.

URL: <https://www.h-net.org/reviews/showrev.php?id=53822>



This work is licensed under a Creative Commons Attribution-Noncommercial-No Derivative Works 3.0 United States License.