

Title—Divorcing Traditions: Islamic Marriage Law and the Making of Indian Secularism
Author—Katherine Lemons
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Categories: Islam, Family Law, Religion, Secularism, Gender

Place: India

Time: 20th Century

Argument Synopsis:

Lemons' book is an ethnography of Islamic legal expertise and practices in the secular state of India, where Muslims are a significant minority and where Islamic judgements are not legally binding. For the purposes of the case study, Lemons focuses on four types of non-state dispute adjudication: dar-ul-gazas (sharia courts), dar ul-ifta (fatwa-giving office), a Sufi healing practice, and a mahila panchayat (women's council). None of these forums are part of the state's formal legal system and thus better understood as practices of sharia rather than practices of state law. A note about **Islamic fatwas: they are not binding** (according to both Islamic legal traditions and the Indian state), rather it is up to the parties involved to decide whether to follow the advice of the fatwa.

Lemons' central argument is that these four systems together animate a plural legal landscape and make up the system of secularism in India. Importantly, Lemons notes that she understands **secularism to be an ongoing project** that aims to establish and maintain an appropriate relationship between religion and politics. "A secular state is, therefore, always secularizing: it is engaged in a process that is never complete, but instead attempts to separate religion from politics, the more intensely it intervenes in and regulates religion, thereby undermining the separation it sets out to secure." (7) Lemons chooses to focus on Islamic divorce proceedings because she argues that they reveal the labor required to separate a private sphere of family, home, and religion from a public sphere of politics and exchange. It is not only the state that works to separate these spheres, but also the various religious legal institutions that operate outside the purview of the state. Her material is drawn from observations of various kinds of mediation during her fieldwork in India, as well as from case documents and files. The book shows the specificity and legal particularity of divorce for Indian Muslims, as well as its broader public significance in India.

Lemons finds that all four distinct forums, in their own way, guides ordinary Muslims as they grapple with how to respond *as Muslims* to marital disputes, domestic violence, and abandonment. She argues that all of these forums participate in an Islamic discursive tradition, which suggests that such a tradition where Muslims are advised how to live their marital relations and divorces as Muslims is far from hermetic. Specifically, Lemons claims that the different traditions of Muslim divorce in India (in both state and non-state forums) do not work independently of each other, but rather they intersect. She argues that these intersections reflect and instantiate relations of power both within and between forums. She concludes by claiming secularism to be a practical, not conceptual, project.

Key Themes and Concepts:

- Indian religious history must be seen as a history of plurality, especially with regard to the place of Islam
- Structure of Indian legal system has entrenched Muslim difference and Hindu majoritarianism and linked both to the 'women question'
- Divorce's centrality to secular governments is in part a result of the colonial and postcolonial legal histories which linked religious regulation to the regulation of kinship