

Empire and the Making of Personal Status

Cambridge Centre for History and Economics

9 June 2014

Julia Stephens, 'Historicizing Personal Law in British India'

This paper focuses on the evolution of the concept of personal law during the second quarter of the nineteenth century in British India. The paper challenges the accepted historical narrative that the concept of personal law originated with Warren Hastings' judicial plan of 1772. A largely unexplored body of colonial writings on Muslim law from the late eighteenth and early nineteenth century demonstrates instead that colonial officials referred to religious laws in a broad range of subjects, stretching from political sovereignty to contracts and property rights. The paper shows that this range of subjects narrowed with the introduction of the term personal law into colonial discourse in the 1830s. The intersecting influence of changing concepts of sovereignty, evangelicalism, and export-oriented capitalism drove the evolution of the concept of personal law. During this process, colonial officials felt particular pressure to sideline Indo-Islamic legal traditions because of the history of Muslim rule. In the 1860s the Indian Law Commission crystallized the division between religious and secular law when it excluded family and ritual from the overall project of legal codification.