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Colonizing Humanity

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<http://legalhist.jotwell.com/colonizing-humanity/>

Samera Esmeir, **Juridical Humanity: A Colonial History** (Stanford University Press, 2012).



Kunal Parker

Samera Esmeir's ambitious book, *Juridical Humanity: A Colonial History*, explores the legal transformation of British-ruled Egypt between the 1880s and the 1930s. With news from Egypt the subject of daily headlines, the book is timely and important. However, it is Esmeir's innovative treatment of her subject that truly makes this book deserving of the widest readership. In contradistinction to a powerful tradition of writing about colonialism, Esmeir sees in the legal colonization of Egypt not the occlusion of Egyptians' intrinsic humanity, but instead the instantiation of "humanity" as the object of colonial law's solicitude. This is the "juridical humanity" of the book's title.

Naming "humanity" as its teleology, Esmeir argues, colonial law sought to reconfigure Egyptian society according to "humanity"'s logic. The pre-colonial legal tradition, one with which the overwhelming majority of Egyptians identified, came to be roundly dismissed as inhuman, barbaric, and violent. With the goal of "humanizing" Egyptian society, colonial law reconfigured Egyptian social relations in a range of contexts: labor, gender, incarceration, the treatment of animals, and so on. European and Egyptian legal elites participated enthusiastically in this "humanizing" project. As Esmeir skillfully shows, however, the effect was not to rid Egyptian society of violence, but rather to produce a different relationship to violence: one that carefully measured, calibrated, and fitted violence to the imperatives of "humanity." It is hard not to recognize in Esmeir's account the pre-history of the human rights-led imperialism of our own day, with its lurid depictions of various social oppressions in the non-Western world that legitimize Western military intervention. Esmeir clearly has this in mind.

But Esmeir is also doing more. She sees in the inauguration of "juridical humanity" in Egypt a problem not just for Egypt, but for the modern world at large. For the legal reconfigurations of social practices according to the logic of "humanity" that she traces in Egypt, she would maintain, are to be discerned all over the modern world, in the historical experiences of the West, Asia, and elsewhere.

This sweeping and provocative argument might be troubling to adherents of a rather more specific understanding of colonialism, especially those scholars who have self-consciously followed in the wake of Edward Said's pathbreaking 1978 book, *Orientalism*. For if the "colonial," in Esmeir's reading, really refers to the operation of modern law in its imposition of the logic of "humanity" on pre-existing social practices, *whether in Europe or elsewhere*, what becomes of the "colonial" understood more narrowly as Europe's relationship of dominance vis-à-vis the rest of the world?

Precisely because Esmeir's book sees itself as tracing through Egyptian materials the instantiation of a general

and global problematic—namely, the emergence of “juridical humanity” as the teleology of modern law—I sometimes had the sense that I was missing the specificity of the situation of the British-ruled Egypt. *Juridical Humanity* can sometimes read like the reproduction of a Western debate—the modern versus the anti-modern—in the context of colonial Egypt, rather than something that emerges from what is particular to Egypt. Esmeir achieves this effect stylistically. Unlike what most professional historians might do, she frequently interrupts a discussion of Egypt to take an extended detour into the writings of Walter Benjamin, or Hannah Arendt, or Bruno Latour, or Donna Haraway. At other times, she suggests that nineteenth and early twentieth century Egyptians made arguments that mirrored—or that could unproblematically be set in dialogue with—the writings of Western legal thinkers working in entirely different contexts. Take, for example, Esmeir’s statement (p. 51): “Mursi and Mustafa’s definition of positive law as inclusive of all forms of legal ordering recognized by the government anticipated by many years H.L.A. Hart’s theory of positive law as articulated in *The Concept of Law*, published in 1961.”

As someone who thinks about, and seeks to think beyond, the prison of historical context, I do not care to insist on the priority of the framework of disciplinary history. Sometimes, however, I found Esmeir’s shuttling between, say, Walter Benjamin and an Egyptian legal scholar a bit infelicitous, not because Esmeir was stepping out of the framework of disciplinary history, but because I sometimes had the sense that Egypt and Egyptians were being pressed into the service of a set of arguments that they might not have cared about. I would have liked more Egypt in this book than Esmeir elected to put in.

This mild criticism notwithstanding, the book Esmeir *has* written is a pathbreaking account of the colonialism of the modern legal project that merits the attention of scholars in a range of disciplines: law, history, Middle Eastern studies, critical theory, science studies, and more.

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