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Judith Surkis, *Sex, Law, and Sovereignty in French Algeria, 1830-1930*. Ithaca: Cornell University Press, 2019. xiii + 335 pp. Illustrations, map, bibliography, and index. \$125.00 (hb.). ISBN 9781501739491; \$29.95 (pb). ISBN 9781501739507; \$109.99 (eb). ISBN 9781501739521.

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“Should we have, from the beginning, applied French law to the populations of Algeria, without taking into account their previous customs, so contrary to our legislation on so many points? This would have been the simple thing, theoretically, but it would have engendered desperate resistance that would have in all likelihood made any colonization impossible. Should we have, to the contrary, left to the conquered people all of their civil and criminal law, while contenting ourselves with superimposing ourselves on them and dominating them politically? This would have been the very negation of the idea of sovereignty. By necessity, we were led to undertake successive attempts to find intermediary regimes, whose duration should have been more or less prolonged, but which couldn’t establish themselves, no matter the good will, without provoking some rifts and, consequently, discontents among those whose secular habits we disrupted.” Senator Alexandre Isaac (Guadeloupe), February 28, 1895.[1]

The famous “Senatorial Commission for the Study of Algerian Questions,” dispatched in 1892 under the leadership of Jules Ferry, produced a number of critical assessments of the French colonial regime in Algeria.[2] One of the most important of the massive reports produced by the eighteen commissioners was the study of Algerian law by Alexandre Isaac, the mixed-race senator from Guadeloupe known as an advocate for human rights and egalitarian colonial reform. Isaac’s 350-page report offered an often-scathing indictment of a legal system that “justifies all the grievances we heard” from Algerians, but recommended relatively minor changes that left the central legal distinction between the colony’s European settlers and Algerian colonial subjects intact.[3] This equivocal outcome reflected the dilemma mapped out in the introduction quoted above, which is the same dilemma at the heart of Judith Surkis’s brilliant cultural history of French colonial law in the first century of the Algerian occupation, namely how to reconcile the theoretical unity of French law under the Civil Code with France’s originary promise to respect Algerian religious and family customs without jeopardizing the project of settler colonialism or French sovereignty itself.

While the relationship between French law and Muslim personal status law has long preoccupied historians of colonial Algeria,[4] the great originality and insight of Surkis’s account is to show the ways in which it was defined from the outset by concerns about gender and sexuality. Focusing largely on civil law, especially with regard to marriage, property, and citizenship,

Surkis traces the ways that French sovereignty and the law that expressed it were anchored in “sexualized conceptions of Muslim legal difference” (p. 5). She goes beyond simply charting the ways that French legal discourses eroticized Algerians, however, to provide a powerful new explanation for the pluralist legal frameworks of settler colonialism itself as a product of French fantasies about male sexual and political privilege. Surkis draws on Jacques Lacan's conception of the “extimate” to frame these fantasies as simultaneously exteriorized and internalized, “a fascination with and jealousy of an Other's excessive sexual pleasure that reveals deep-seated but unrecognizable desires within the self” (p.16). These transgressive desires being incompatible with the law (Lacan's Symbolic—in this case, the monogamous, patriarchal marriage enshrined in the Civil Code), the enduring preoccupation of French jurists, policymakers, journalists, and other observers with Algerians' sex lives was driven by their simultaneous disgust and envy at what they saw as the pleasures forbidden by the Civil Code but authorized by Muslim law. Colonial law was thus deeply imbued with “libidinous and affective investments” (p. 15) grounded in the indulgence and disavowal of desires contrary to French men's conceptions of their legal and sexual selves. Following postcolonial and feminist theorists on the critical psychic dimensions of colonial power, Surkis sees this dynamic of interlinked projection and disavowal as the reason for both the tenacity and tenuousness of this extimate relationship to “Muslim sex” in forging French colonialism in Algeria (p. 6).

The eight succinct chapters of *Sex, Law, and Sovereignty* trace the ways that sexual fantasies and affective engagements inspired colonial law from the French invasion of Ottoman Algiers in 1830 through the celebration of French Algeria's centenary in 1930. They move thematically and chronologically through the halting development of the colonial legal order, drawing on legal texts, law codes, judicial records, and literary and visual sources to map out key pieces of legislation, the imaginaries that shaped them, and the ways that both Europeans and Algerians responded to, used, and challenged colonial law. The first chapter charts early French efforts to establish a legal foundation for colonial control of people and land during the so-called period of uncertainty of 1830-1834, when the July Monarchy struggled to determine a course of action in Algeria. Caught between a capitulation treaty that promised respect for Algerians' faith, families, property, and women and their own fantasies of liberating Algerian women from the despotism of Algerian men, colonial officials pursued not legal assimilation or conversion to Christianity, but a plural judicial structure defined by legal, religious, and sexual boundaries between Algerian and European communities. A series of conflicts over the legal status of women converts created “epistemic confusion” that pushed French authorities to attempt to delineate separate realms of “Muslim” and “French” law (p. 52). Subsequent chapters trace efforts to define and impose these boundaries through the legal regulation of polygamy, family property, child marriage, mixed marriages, military justice, and citizenship reform after World War I.

Crucially, Surkis links efforts to legislate Algerians' intimate lives to the legal building blocks of French settler colonialism in Algeria. Together, regulation of marriage and family sought to separate Muslim Algerians' persons from their property both legally and physically, with fatal consequences for their political and economic disenfranchisement. The core chapters of the book in this regard are chapters 2 and 3, which examine the ways that Algerians' personal lives were defined by the sénatus-consulte of 1865 as incompatible with supposedly secular French citizenship under the Civil Code and thus properly governed by Muslim law, while their land was conceived as an economic matter to be brought under ordinary French public law by the Warnier Law of 1873. Historians have long recognized the critical importance of these laws, which designated Algerians as “denatured” French nationals without the rights of citizenship and

provided the legal tools to break up collectively held land for mass transfer to European settlers respectively.[5] But reading them through the lens of gender and sexuality offers a powerful new interpretation of these legal cornerstones of French Algeria. Concerns about polygamy, divorce, and the affective bonds of family were the cord that bound personal status and land law together.

This startlingly original approach has powerful explanatory force, but in making her larger arguments about what she terms the “legal colonization” of Algeria (p. 4), Surkis never loses sight of the essential precarity of the French juridical edifice there. Contingency and instability haunted both the writing and the practice of colonial law. The fantasies that inspired and guided French jurists and policymakers were defined by their own endless deferral, and the law was perpetually contested in ways that revealed the impossibility of fencing off embodied personal status from territorialized property. As the sensitive readings of specific cases that punctuate each chapter make clear, individuals from all segments of colonial society—from unhappy Algerian wives to ambitious Jewish lawyers, sexually abusive French military officers, French women who married Algerian men, Young Algerian reformists and intellectuals, and novel-writing colonial lawyers—bent the racialized religious boundaries presumed by the law and struggled to use and reimagine the law to their own ends. Law’s precarity as a centerpiece of French civilization in Algeria was evident in the centenary of 1930, ostensibly an occasion to glorify the colonial civilizing mission that was, in Surkis’s reading, “a compensatory fantasy that marshaled funds and feelings to secure a status quo that never was and could never be” (p. 283). The costly year-long celebrations provided an occasion for critics, most notably Young Algerian journalists and French feminists, to highlight their political exclusion from the supposedly secular colonial political order, while the French male defenders of that order praised it in terms that revealed their own sexual and political insecurities, as well as the ultimate insecurity of French sovereignty in the colony.

Sex, Law, and Sovereignty is a major contribution to the literature on French colonialism in Algeria. Focusing on the relatively neglected first century of the colonial period, it offers a compelling reinterpretation of the making of French Algeria that brings together the too-often separated histories of persons and property, and makes a convincing case that we must take seriously the psychic and affective forces channeled through talk about Muslim sex. Re-reading of nineteenth-century French Algeria through the lens of gender and sexuality helps to break through stale debates about assimilation and association in colonial governance, as well as to bridge the historiographical gap between the history of French rule over Algerian colonial subjects and that of colonial settlement by European immigrants. At the same time, Surkis adds another important piece to the story of how Islam has been racialized in French culture and law.[6] The “corporealized conception of Muslim law” mapped out in nineteenth-century Algeria, as well as the implicitly racialized French sovereignty that was its legal correlate, has outlasted formal colonization, as the brief epilogue points out (p. 293). Those baffled by the bitter tenacity of current French debates about racism, Islamophobia, and *laïcité* will find this book an essential aid in understanding why Muslim French citizens’ sartorial, culinary, and sexual choices remain such a stubborn feature of political culture in postcolonial France.

It is worth noting in closing that *Sex, Law, and Sovereignty* is also a pleasure to read. Surkis moves seamlessly between the writing and practice of legal pluralism in a complex, tumultuous period of Algeria’s history. And despite the book’s sophisticated theoretical framing, she wears her feminist and psychoanalytic theory lightly. The mini microhistories or case studies that anchor

each chapter bring the more abstract legal analysis to life in ways that will be accessible even to non-specialists. This is the kind of book that scholars and students alike will read for historical insight and methodological inspiration for years to come.

NOTES

[1] Alexandre Isaac, *Rapport fait au nom de la Commission chargée d'examiner les modifications à introduire dans la législation et dans l'organisation des divers services de l'Algérie (Justice française et musulmane) (Police et sécurité)* (Paris: P. Mouillot, 1895), p. 2. English translations from French are by the reviewer.

[2] Charles-Robert Ageron, "Jules Ferry et la question algérienne en 1892 (d'après quelques inédits)," *Revue d'histoire moderne et contemporaine* 10/2 (1963): 127-46.

[3] Isaac, *Rapport*, p. 3.

[4] Most notably with regard to citizenship and nationality law. See, among others, Laure Blévis, "Les avatars de la citoyenneté en Algérie coloniale ou les paradoxes d'une catégorisation," *Droit et Société* 48 (2001): 557-580; Blévis, "La vitoyenneté française au miroir de la colonisation: étude des demandes de naturalisation des 'sujets français' en Algérie coloniale," *Genèses* 53 (2003): 25-47; Patrick Weil, *Qu'est-ce qu'un Français? Histoire de la nationalité française depuis la Révolution*, revised ed. (Paris: Gallimard, 2005); Laure Blévis, "En marge du décret Crémieux. Les Juifs naturalisés français en Algérie (1865-1919)," *Archives juives* 45 (2012): 47-67; Emmanuelle Saada, "Nationalité et citoyenneté en situation coloniale et post-coloniale," *Pouvoirs* 160 (2017): 113-124. The other central focus in this literature is criminal law and the regime of the *indigénat*. See Olivier Le Cour Grandmaison, *De l'indigénat. Anatomie d'un 'monstre' juridique: le droit colonial en Algérie et dans l'empire français* (Paris: Zones, 2010); Sylvie Thénault, *Violence ordinaire dans l'Algérie coloniale: camps, internements, assignations à résidence* (Paris: Odile Jacob, 2012); Sylvie Thénault, "L'indigénat dans l'Empire français: Algérie/Cochinchine, une double matrice," *Monde(s)* 12 (2017): 21-40.

[5] Weil, *Qu'est-ce qu'un Français*, p. 225. See, among others, Michael Brett, "Legislating for Inequality in Algeria: The Senatus-Consulte of 14 July 1865," *Bulletin of the School of Oriental and African Studies, University of London* 51, no. 3 (1988): 440-461; Blévis, "Les avatars de la citoyenneté"; Nordine Amara, "Être algérien en situation impériale, fin XIXe siècle-début XXème siècle. L'usage de la catégorie 'nationalité algérienne' par les consulats français dans leur relation avec les Algériens fixés au Maroc et dans l'Empire ottoman," *European Review of History/Revue européenne d'histoire* 19, no. 1 (2017): 59-74; Djilali Sari, *La dépossession des fellahs (1830-1962)* (Algiers: SNED, 1975); Alain Sainte-Marie, "Législation foncière et société rurale. L'application de la loi du 26 juillet 1873 dans les douars de l'Algérois," *Études rurales* 57 (1975): 61-78; Didier Guignard, "L'affaire Beni Urjin: un cas de résistance à la mainmise foncière en Algérie," *Insiyat* 25-26 (2004): 101-122; Jennifer Sessions, "Débattre la licitation comme stratégie d'acquisition des terres à la fin du XIXe siècle," in *Propriété et société en Algérie contemporaine. Quelles approches?*, eds. Didier Guignard and Isabelle Gringaud (Aix-en-Provence, IREMAM, 2017), <https://books.openedition.org/iremam/3648>.

[6] Joan Scott, *The Politics of the Veil* (Princeton: Princeton University Press, 2007); Naomi Davidson, *Only Muslim: Embodying Islam in Twentieth-Century France* (Ithaca: Cornell University

Press, 2012); Todd Shepard, *Sex, France, and Arab Men, 1962-1979* (Chicago: University of Chicago Press, 2017); Eric Fassin, "Houellebecq antilibéral, du sexe à l'Islam," *Modern & Contemporary France* 27, no. 1 (2019): 11-26. On the difficulty of thinking about Islam as a racial category in the French social sciences, see Housa Asal, "Islamophobie: la fabrique d'un nouveau concept. État des lieux de la recherche," *Sociologie* 5 (2014): 13-29; Jean Beaman, "France's Ahmeds and Muslim Others: The Entanglement of Racism and Islamophobia," *French Cultural Studies* 32/3 (May 2021): 269-279.

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