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## Rethinking Gender and Justice in South Asia, 1772–2013

Padma Anagol & Daniel J.R. Grey

Amartya Sen has compellingly argued in *The Idea of Justice* that far from being a value-neutral term, 'justice' is a relative one, with competing claims made on it by different parties in any given context. (1) Does this mean that justice is an empty concept, bereft of any meaning or devoid of self-explanatory power? This special issue seeks to find answers to this question. 'Justice' came to embrace myriad meanings for the British Empire. Enlightenment thinking that hinged on rationality and logic, discarding superstition and religion, provided a platform for the discussion of rights and justice for the new generations of philosophers such as Jeremy Bentham and James S. Mill. (2) The debates that spilled over from such a legacy on collective versus individual rights can be seen unfolding in various discourses from missionaries, indigenous legal thinkers, reformers down to artists, novelists and British officials on the ground in the wider British empire from across India, Burma and Malaysia. So influential was the idea of justice in the template of the 'civilising mission' that despite the religious and theological framework of missionary thinking on the idea of 'mercy' and 'justice', one notices from this collection of essays that missionaries and their African and Asian converts drew more from Enlightenment thought and the Gospels rather than the Old Testament in the new phenomenon called 'mission Christianity'. (3)

Concerns with 'justice' and what this might entail for South Asia in the sense of delivering 'fairness and equitable treatment', goes beyond a focus on the narrow legalistic sense of the term, yet simultaneously returns to the ideas and practices of law. These processes are also deeply bound up with both the materiality and representation of gender, as evidenced by the national and international responses that were generated by the gang-rape and murder of a 23-year-old physiotherapy student in New Delhi on 16 December 2012. (4) For Indian women and men who publicly protested, the raped student (Nirbhaya) became a rallying cry in not just bringing the specific perpetrators to account, but to highlight broader issues of injustice facing women, such as restrictions (in practice if not necessarily in theory) on mobility, education and dress. (5) Alongside the issues of discrimination and injustice, the subject of South Asian women's social, cultural, religious and economic position has also historically been identified both within and outside the subcontinent as an area particularly deserving of attention. In practice, however, the ways in which inequality around gender and sexuality has been theorised and

articulated in both colonial and postcolonial South Asia has been highly variable. On the one hand, it has led to thriving feminist movements, and on the other, notions of 'eternally oppressed South Asian women' have been – and are still – used as a pretext to justify a plethora of conservative viewpoints about this region, both at home and abroad.

While the intertwined but distinct histories of crime and law are increasingly recognised as having been key elements in the creation and maintenance of both colonial and postcolonial states in South Asia from the eighteenth century to the present, (6) this field has only recently begun to attract sustained scholarly attention. (7) Indian women as 'victims' of crime was first noticed by the Company state in the eighteenth century through their administrative policies of observing the subject population's societal customs such as sati (widow burning). (8) But soon, their attention was diverted to women as 'criminals' as in the case of female infanticide when the state shifted its gaze from identifying male heads of households as accountable to viewing mothers, wives and midwives in the hidden recesses of zenanas as complicit in the crime. (9) This process happened gradually as the colonial regime confronted the intersecting and competing ideas and practices which resulted from their construction of gender, sexuality, 'race', caste and religion in South Asia. (10) Yet masculinity was equally – if perhaps more implicitly – important as a factor in determining what 'justice' entailed. As Deana Heath has recently demonstrated, constructions of masculinity played a crucial role in determining the official and popular limits of sympathy for male victims of crime, as well as for perpetrators. (11) Nor have these issues been solely 'colonial problems', but they continue to resonate in the present day. The multifarious discourses of colonial and postcolonial 'justice'; the relationship it does –or does not– have with the law, and the broader implications of this for culture and society in modern South Asia, have been studied even less despite the frequent references to this subject in both popular and official contexts. Conceptions of 'rights', a subject closely aligned to that of 'justice', are not static and universal even when absent, but are instead moulded by specific historical and geographical concerns. (12) As a number of social anthropologists have demonstrated, there are profound tensions between the rule of law and the adherence to or rejection of local 'custom', including constructions of gender and sexuality, in shaping cultural, social and legal processes. (13) The colonial state was frequently able to project itself as a 'modernising' force in South Asia, whilst simultaneously both re-inscribing and denouncing the supposedly 'feudal' power structures that it ostensibly was protesting against and reforming. The postcolonial state has further complicated this picture by invoking the forces of 'tradition' and 'authentic cultural values' in support of what were originally implemented as colonial laws and practices, especially those relating to gender and sexuality. (14) It is therefore essential to explore in more detail the complicated and sometimes contradictory development of

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the law in South Asian history, and to challenge assumptions that these events were inevitably and entirely Orientalist impositions on the unresisting (and seen as otherwise a static) cultural and legal landscape of the subcontinent.

This special issue provides a timely and original intervention into the historiography of gender and justice in South Asia, starting with the colonial legal system that resulted from the imposition of the Hastings Plan in 1772, and continuing through to the early twenty-first century. (15) This volume introduces new perspectives on how gender and justice have shaped each other as concepts and lived experiences in South Asia, including how the British administrators, judges, newspaper editors and military authorities attempted to translate these ideas (not always successfully) into the rather different regions of India, Burma and Malaysia. A key element of each contribution is the focus on how individual social actors in South Asia have experienced the struggle for 'justice' and responded to colonial and/or postcolonial frameworks of knowledge and power. Drawing on interdisciplinary methods and scholarship from fields including (but not limited to) law, anthropology, dance, development studies, visual cultures and literary studies; all full essays in this collection stresses the essential link between cultural and social history in shaping our understanding of gender and justice in modern South Asia.

This collection of interdisciplinary essays starts with Padma Anagol analysing the introduction of the idea of restorative justice, meant to 'cure' Indians of killing female infants, and gradually moving to retributive justice. Using a combination of microhistory and linguistic theory, she examines the social and cultural policies of the Company government in Western India during the 1830s and early 1840s, when British policy-makers unevenly moved from overt coercion to subtler approaches in their bid to eradicate female infanticide. Anagol uses novel source materials unearthed and interpreted in a novel way for the first time to get underneath the skin of the covert restorative system of British justice. She urges us to regard prize essay competitions as a repository of literary devices tailor-made by the colonial state and utilised by Indian elites in the service of the imperial state. By deconstructing the prize-winning essay of Bhau Daji Lad, a prominent social reformer, she argues that it was instrumentalised to make way for the easy importation of British notions of justice such as regard for life, considered as lacking in Indian thought, philosophy and practice by Orientalist thinkers. Anagol's essay complicates the idea of 'justice' as well as 'collaboration' of Indians with the Company government. Daji was no compliant collaborator, nor was his conception of 'justice' a straightforward one. The success of his essay in convincing the awards panel rested on his ability to blend older forms of European jurisprudence that regarded God as the ultimate arbiter of justice with Indian

notions of sovereignty. The core of his argument honed in on the body of the mother and the midwife as the actual culprits in the crime of infant murders. From 1830 to 1870, female infanticide was considered a community specific 'custom' and heads of households were made accountable for the injustice. The introduction of prize giving culture as a means of social reform meant that the crime took on new meanings along gendered lines. As Daji's essay revealed, a renewed focus on women's culpability for infanticide ironed out the fractious relationship between indigenous men as 'heads of household' and the colonial state, and ultimately facilitated the passing of the Infanticide Act of 1870.

The complex way in which missionaries took on the role of interlocutors in the relationship between the Raj and natives through select readings of the idea of 'justice', at once acting as collaborators even whilst destabilising the state, is brought to the fore by Esme Cleall. By digging through the records of the London Missionary Society (LMS), the largest and arguably most influential Protestant mission of nineteenth-century Britain, she demonstrates how missions used 'justice' to create an identity exclusive to religion-based bodies that acted as both an administrative tool and a theological explanation. The importance of Christianity in the 'civilising mission' meant that missionaries could often claim a moral and cultural authority in the Empire that other groups could not replicate. Cleall names missionary justice loosely as embodying four approaches: social, legal, providential and institutional conceptualisations of justice. She moves through consideration of several legal cases of sexual misdemeanours brought to missionary courts; including the treatment of Indian Christian clergy, and the involvement of Indian women in controversial events such as the famous 'Breast cloth controversy' that affected Nadar women in Travancore state. Just as in Anagol's study, Cleall also demonstrates there was no straightforward understanding of the term 'justice' in missionary discourses. 'Justice', in describing the pitiable condition of women in mission rhetoric began to acquire 'virtues' in its template: thus what was 'right', 'fair'; 'truthful'; 'reasonable'; 'good' and 'honest' was 'justice' – and inevitably this was equated to Britishness. 'Injustice' was thus associated with unacceptable forms of behaviour and functioned as a tool of 'othering'. Cleall's conclusions are that there was no 'moral certainty' in the concept of missionary justice. Despite their implicit or explicit claims to the contrary, for missionary justice was a racialised and gendered concept that was also highly contingent, imbued with specific meanings benefiting the mission's cause in the colony.

The momentous events of 1857 are well known and have often been well-rehearsed over the last 150 years but surprisingly, the visual history of the Great Rebellion remains under-studied. Joanna de Groot provides a much-needed remedy for this omission through drawing on visual culture and

approaches borrowed from the history of emotion. This novel methodology enables her to shed new light on the events leading to the bloodshed in 1857. Her main concern is to show how representations of gendered violence were funnelled into legitimating British rule. The ideas of justice were visited again and again in the various paintings, cartoons and pencil sketches of the key events such as Kanpur Massacre, the Lucknow Siege and the Bibighar incidents. De Groot shows how painters and artists together with novelists and memoir writers were complicit in helping build both nationalist and imperialist imaginaries of the events playing out the great drama of power versus resistance.

If Anagol talks of restorative (curative) justice in the context of female infanticide, De Groot reveals retributive forms of justice as depicted in imperial paintings which overturned gender assumptions of both British and Indian women. The art work she analyses reveals an array of impulsive and feisty Englishwomen, crossdressing Indian women, effete Indian men and heroic Englishmen. Such visual culture tells a sordid tale of justifying violent times (retribution) without the civilising idea of mercy (justice). De Groot argues that such a strategy allowed military and civil authorities and ordinary Britons to over-ride the impulses of the 'civilising mission'. Sorrow, rage, sadness and brutality are vividly analysed through images of princesses, prostitutes, middle- and working-class white British women. But the core conclusions point to the highly-nuanced ways whereby the artistic community fed into the dynamic of imperial governmentality as well as subaltern resistance.

Daniel Grey takes our attention to nuances in legal reasoning in early nineteenth century India. The presidency of Bengal (Eastern India) – the longest settled territory of the Crown, with its capital at Calcutta invented forms of legal jurisprudence which were to be standardised and exported to other parts of the empire. The development of 'Anglo-Muhammedan' law in this period meant that until 1860, criminal cases in Company territory were invariably dealt with through a complicated mixture of Islamic law (sharia) and borrowings from the English legal system, regardless of the faith of indigenous prisoners. Grey examines 131 cases of accused husbands whose sentences were reviewed by the Nizamat Adalat between 1805 and 1857 in Bengal. In doing so, he builds on the previous historiography but shows how fluidity in legal understandings of wife murders had been present in an earlier period of modern India. He contends that the legal reasoning behind acquitting Indian husbands found guilty of murdering their spouses on grounds of infidelity was borrowed from English and Scottish laws which likewise considered the husband as an aggrieved man whose masculinity had been threatened by the sexual insubordination of his wife.

Moving between records for Britain and the Nizamat Adalat commentaries, Grey reveals highly racialised, gendered and class-based considerations which governed the understanding of British juries and judges both at home and abroad. A startlingly high percentage of accused Indian husbands received the more lenient sentences of imprisonment for transportation to penal colonies or hard labour for 5 to 7 years or acquittal was granted rather than the capital punishment for homicide. Even whilst British judges struggled to define the boundaries of what was 'acceptable' or 'unacceptable' behaviour by husbands in domestic circumstances, in both countries it was agreed by the state that a certain, ill-defined amount of 'correction' of a recalcitrant wife was permissible. Unsurprisingly, such attitudes had a deleterious impact on trials in both England and India for the murder of wives by their husbands.

Anna Morcom turns our attention to the contemporary world of Indian entertainment industry, and the fate of Mumbai (Bombay) bar girls in the increasingly conservative societal strictures of Western India. In August 2005, the Bombay Government brought a ban on public performances of bar girls arguing that these were an affront to their dignity and that the ban would stop them from being coerced into prostitution. In 2006, the Bombay High Court declared the ban as 'unconstitutional' leading the Maharashtra Government to seek assistance from the Supreme Court of India – the highest in the land. In July 2013, the High Court judgment was upheld.

Unpacking the discourses surrounding the victory of the bar girls, Morcom notes that legal and popular discourses on the street all leaned towards 'rights-based' approaches or purely 'consequentialist or welfare-based approaches' to justice. The Indian Government adopted a watered-down idea of tangible and measurable rights such as a 'right to a profession' rather than the socialist and liberal framework of 'rights-based approaches' which may engender consequences. If one applies Amartya Sen's 'capabilities approach' to this event, one sees that clearly the bar girls had fallen into economic difficulties and their freedom to choose and act out in a trade had been taken away.<sup>(16)</sup> If in some senses justice was restored for them, the fact that bars remain closed still means that it is a 'moral' triumph alone. While unfair discrimination was recognised and challenged by the government in the case of bar girls, for transgender female performers no such acknowledgement is in sight despite the efforts of the LGBT movement. Morcom compellingly argues that this judgment remains a hollow victory for campaigners without proper recognition of the loss for devadasis, courtesans and to think in terms of 'reparation' or propping up communities as performers; or indeed elevating these hereditary performing artistes as 'culture-bearers' of Indian dance and music heritage in our cultural discourses.

Does 'Justice' have a national boundary? Or, in other words, for imperial powers was it the case that this idea of justice emanated only from a European source such as metropolitan Britain, France or Germany? Lauren Benton has rightly argued that justice knows no national boundaries and in the time of expansion of empires, the 'border crossings' of the whole plethora of meanings embedded in justice went global.<sup>(17)</sup> It is a theme that crops up again and again in many of the studies in this collection. Hussin talks of the global networks starting with British penal justice as introduced in personal law for Muslims in British India entering Malaysia in the colonial period and used to this day. Grey argues that the selective importation of English juridical understandings of criminal behaviour was gendered in ways that gave no justice to the murdered wife; in Anagol – we notice the literary borrowings from Europe wherein the essay competition itself became a heuristic device imported from Victorian Britain which Indian elites used effectively in the art of 'persuasion' to convict women, i.e. mothers and midwives for the crime of infanticide turning attention away from male perpetrators of the crime. In her path-breaking work De Groot demonstrates the use of vivid colours and oriental tropes taken from European schools of painting and applied in Indian artwork especially in showing punitive measures such as firing Indian rebels from guns and graphic images of Indian cruelty in the pursuit of creating subdued subjects. These techniques made sure that even art was put to service in ensuring that colonial governmentality reigned supreme in the hearts of politicians and laymen at home and in producing the best subjects in Indians by subjugating them further.

The next two essays, by Iza Hussin and Jonathan Saha, move away from the much-frequented historiographical paths of Indian subcontinent to consider events in Malaysia and Burma, respectively. Troubling juridical legacies and racial stereotypes knit these papers together in a rich tapestry. In a study that stretches from 1779 to the present, Iza Hussin unpicks the granular details of the messy world of Malay politics of gender wherein ethnicity, identity, citizenship and religion are woven intimately over the body of the Malay woman. Hussin queries whether the Malaysian justice system has been just to women – both Muslim and non-Muslim – using the issue of apostasy as a lens. Examining both well known and less famous cases of apostasy, Hussin contends that the body of the Malay woman has been a site of contestation where patriarchal and religious markers have taken precedence in law over notions of individual rights.

Hussin argues that most of these contemporary practices and ideas have their roots in the Hastings Plan of 1772. Troubling legacies of British-based legal systems during their rule in the Indian subcontinent have left scars in Malay Muslim law which continue to operate negatively for women's rights. The Hastings Plan of 1772 argued that understandings of 'appropriate' outcomes



and rights for Indian colonial subjects in all civil matters – such as inheritance laws, marriage and issues relating to the family – were intrinsically shaped by the faith of the petitioner. Henceforth, such subjects fell under the rubric of ‘personal law’. When British agents drew on the Indian model of ‘personal law’ as a template for administering other colonies, these rules were imposed beyond South Asia, despite there being no such precedents for the pre-colonial period. (18) Due to this, Hussin argues that the legal landscape in Malaysia is best understood not as a local, or even regional framework, but as South Asian: its networks of legal practices derived from the citations and underpinnings of British colonial jurisprudence. The treatment of gender must therefore be understood and deconstructed in these larger contexts. The shared colonial past and inheritance of legal systems from Britain and India matters enormously.

Conceptions of masculinity in imperial contexts and their new avatars are the subject of Jonathan Saha’s study. In a pioneering article, Mrinalini Sinha urged scholars to examine how ‘people’ holding significant public positions become ‘men’ and to denaturalise the presumed links between sexed bodies and gendered discourses. (19) Jonathan Saha carries out this task admirably for understanding British male imperial identity in colonial Burma through focusing on the case of Ainah, an eleven-year-old female child, who was kidnapped and raped by a violent plantation owner. The man in question, Captain McCormick, refused to return the child to her family and threatened them with physical violence. When the case came to the attention of the colonial authorities, Judge Hartnoll and District Magistrate G.P. Andrew connived to not only disregard the evidence but also explain away the discrepancies in McCormick’s account, assuming that Burmese women’s testimony was inherently unreliable. Ultimately there was no justice for Ainah: McCormick was regarded as blameless. Moreover, when a British journalist living in Rangoon subsequently wrote a pair of scathing newspaper articles denouncing the inquiry as corrupt, and an insult to British principles of ‘justice’ on the grounds that colonial officials should be seen as scrupulous, objective and fair, he was accused (and convicted) of defamation by the outraged authorities. Judges and magistrates, fiction writers and journalists all subscribed to a vision of white, male objectivity which they truly believed to be impartial, fair and just. Ultimately, questioning whether the reality matched up to this vision – even by a conservative rather than radical critic – was held to be a greater crime than having abused a child.

Saurabh Dube and Anupama Roy have astutely pointed out that ‘questions of crime are better approached as problems of knowledge and knowing.’ (20) Anupama Rao and Saurabh Dube, ‘Questions of Crime: An Introduction’ in Dube and Rao (eds), *Crime Through Time*, p. xxii. The same argument may be applied to concepts of ‘justice’ and ‘gender’, and the porousness and

intermeshing of both categories are vividly demonstrated in all the case studies analysed in this collection. Does 'justice' work equally and uniformly for men and women, be it in Malaysia, Burma or India? If 'justice' does not work for either men or women, does it serve the state or religious elite bodies (Christian/Islamic) or secular indigenous elite groups alone? All these contributions engage with this question and provide answers taking into consideration the specific local/regional context and the involved parties. In various parts of the British empire, including Burma, India and Malaysia, colonised female subjects were routinely deemed as unreliable legal witnesses. In contrast, British judges and magistrates on the other hand became the embodiment of detachment and objectivity, depicted as white men, mastering their baser impulses and conforming to the highest standards of British justice. Saha demonstrates how testimonies of native women, especially those involved in entertainment or the sex industry, were dismissed as untrustworthy on grounds of their 'character'. This is a theme that reverberates in Morcom's study of Bombay bar girls as well as Cleall's study of missionary justice in native mission workers' cases of sexual misdemeanour. Grey, Iza and De Groot demonstrate the power of importation of concepts be it of painting styles and techniques, citational practices or wholesale border crossings of legal reasoning, all of which are presented in gendered discourses of imperial governmentality. Such discourses invariably affected the rights of indigenous men and women in a detrimental manner. In Cleall's, Anagol's and Saha's works, we see how liberal Imperialism in the end won out over competing discourses. The power of the discourse of 'civilising mission' to which all privileged groups, be it British or indigenous, used justice as the pivotal idea of governmentality. This vision largely overshadowed all other concerns, leading to a widespread conviction that the idea of 'British justice' as a moral force that underpinned the imperial project was not only self-evident, but beyond reproach.

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## Notes

1. Amartya Sen, *The Idea of Justice* (London, 2009).
2. Partha Chatterjee, 'The Curious Career of Liberalism in India', *Modern Intellectual History*, 8:3, (2011), pp. 687–69; Bart Schultz and Georgios Varouxakis (eds.), *Utilitarianism and Empire* (Oxford, 2005).
3. For a definition of 'mission Christianity', see Padma Anagol, 'Indian Christian Women and Indigenous Feminism, c.1850–c.1920' in Karen Offen (ed.), *Globalizing Feminisms, 1789–1945* (New York, 2009), pp. 96–110 and Esme Cleall, *Missionary Discourses of Difference: Negotiating Otherness in the British Empire, 1840–1900* (Basingstoke, 2012).
4. This case garnered substantial media coverage worldwide, but see for example Gardiner Harris, 'Charges Filed Against 5 Over Rape in New Delhi', *New York Times*, 3 January 2013; [https://www.nytimes.com/2013/01/04/world/asia/murder-charges-filed-against-5-men-in-india-gang-rape.html?hp&\\_r=0](https://www.nytimes.com/2013/01/04/world/asia/murder-charges-filed-against-5-men-in-india-gang-rape.html?hp&_r=0) [Accessed 4 March 2017]; 'Delhi Rape: How India's other Half Lives', *The Guardian*, 10 September 2013 <https://www.theguardian.com/world/2013/sep/10/delhi-gang-rape-india-women> [Accessed 4 March 2017].
5. Sharmila Lodhia, 'From "Living Corpse" to India's Daughter: Exploring the Social, Political and Legal Landscape of the 2012 Delhi Gang Rape', *Women's Studies International Forum*, 50 (2015) pp. 89–101; Krupa Shandilya, 'Nirbhaya's Body: The Politics of Protest in the Aftermath of the 2012 Delhi Gang Rape', *Gender & History*, 27 (2015) pp. 465–86.
6. This has led to publication of a reader devoted specifically to this subject: Saurabh Dube and Anupama Rao (eds), *Crime Through Time* (New Delhi, 2013).
7. Important book-length histories of law in colonial South Asia include Radhika Singha, *A Despotism of Law: Crime & Justice in Early Colonial India* (Delhi, 1998); Clare Anderson, *Legible Bodies: Race, Criminality and Colonialism in South Asia* (Oxford, 2004); Anindita Mukhopadhyay, *Behind the Mask: The Cultural Definition of the Legal Subject in Colonial Bengal (1715–1911)* (New Delhi, 2006); Nandini Chatterjee, *The Making of Indian Secularism, Empire, Law and Christianity, 1830–1960* (Basingstoke, 2011); Eleanor Newbiggin, *The Hindu Family and the Emergence of Modern Indian Law, Citizenship, and Community* (Cambridge, 2013); Mitra Sharafi, *Law and Identity in Colonial South Asia: Parsi Legal Culture, 1772–1947* (Cambridge, 2014).

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8. Lata Mani, *Contentious Traditions: The Debate on Sati in Colonial India* (Berkeley, 1998).

9. Padma Anagol, *The Emergence of Feminism in India, 1850–1920* (Aldershot, 2005), pp. 141–80.

10. Padma Anagol, 'The Emergence of the Female Criminal in India: Infanticide and Survival Under the Raj', *History Workshop Journal*, 53 (2002) pp. 73–93; Daniel J.R. Grey, 'Creating the "Problem Hindu": Sati, Thuggee and Female Infanticide in India, 1800–60,' *Gender & History*, 25 (2013), pp. 498–510; Mukhopadhyay, *Behind the Mask*, pp. 51–60.

11. Deana Heath, 'Torture, the State, and Sexual Violence against men in Colonial India', *Radical History Review*, 126 (2016), pp. 122–133.

12. Michael R. Anderson and Sumit Guha, (eds.) *Changing Concepts of Rights and Justice in South Asia* (New Delhi, 1998); Lynn Hunt, *Inventing Human Rights: A History* (New York, 2007).

13. See for example Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago, 2006); Livia Holden, *Hindu Divorce: A Legal Anthropology* (Aldershot, 2008); Perveez Mody, *The Intimate State: Love-Marriage and the Law in Delhi* (Abingdon, 2008); Fernanda Pirie, *The Anthropology of Law* (Oxford, 2013); Srimati Basu, *The Trouble with Marriage: Feminists Confront Law and Violence in India* (Oakland, 2015).

14. Rina Verma Williams, *Postcolonial Politics and Personal Laws: Colonial Legal Legacies and the Indian State* (New Delhi, 2006); Stephen Legg and Srila Roy, 'Neo-Liberalism, Post-Colonialism and Hetero-Sovereignties: Emergent Sexual Formations in Contemporary India', *Interventions: International Journal of Postcolonial Studies*, 15 (2013), pp. 461–73.

15. This was a fundamental reshaping by Hastings of the existing judicial system in colonial India. See British Library Add. MS. 29203. Warren Hastings, 'Regulations Proposed for the Government of Bengal', 1772, fos.1–16. Among other reforms, it led to the establishment in Bengal of the Sadr Nizamat Adalat for considering criminal cases and the Sadr Diwani Adalat for civil cases, and set the foundations for the development of 'personal law' throughout the colonial period. For broader context see Robert Travers, *Ideology and Empire in Eighteenth-Century India: The British in Bengal* (Cambridge, 2007), pp. 100–40.

16. Amartya Sen, *Development as Freedom* (Oxford, 1999), pp. 54–86.

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17. Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900* (Cambridge, 2004).

18. Iza R. Hussin, *The Politics of Islamic Law: Local Elites, Colonial Authority and the Making of the Muslim State* (Chicago, 2016).

19. Mrinalini Sinha, 'Giving Masculinity a History: Some Contributions from the Historiography of Colonial India', *Gender & History*, 11 (1999), pp. 445–60.

20. Anupama Rao and Saurabh Dube, 'Questions of Crime: An Introduction' in Dube and Rao (eds), *Crime Through Time*, p. xxii.