
H-France Review Vol. 16 (July 2016), No. 134

Mary Dewhurst Lewis, *Divided Rule: Sovereignty and Empire in French Tunisia, 1881-1938*. Berkeley: University of California Press, 2014. xiv + 302 pp. Maps, tables, figures, bibliography, and index. \$49.95 U.S. (cl). ISBN 978-0-520-27915-5.

Review by Silvia Marsans-Sakly, Fairfield University.

The book, *Divided Rule*, chronicles how the French governed Tunisia from the initial incursion across the border with Algeria to the formation of the nationalist neo-Dustur party. French troops overran Tunisian territory by using the pretext that the Tunisian Khmir tribal population had violated what was actually a nonexistent border. French troops gave the ruling bey Mohammad Sadiq bey a four-hour ultimatum to sign the Treaty of Bardo accepting French “protective” rule, ending decades of contentious diplomatic rivalry with other European powers. At least that is the conventional story. In this narrative however, Lewis tells us that it was only the beginning. After the military marched across the border, France took Tunisia over by treaty contingent upon maintaining/protecting beylical sovereignty which meant also preserving pre-existing treaties with foreign powers in Tunisia, two of whom—Italy and Britain—had resident clients numerically superior to French residents, namely Italians and the Maltese.

Maintaining the bey’s power—to levy taxes, keep order through the local police, maintain religious institutions, adjudicate *shari’a* law—while expanding French rule turned out to be the means to indirectly colonize the country. This strategy had contradictory turns: upholding the bey’s sovereignty at first weakened French colonial rule because prior agreements guaranteed European consular jurisdiction and this meant legal independence for protégés through preferential agreements (capitulations or *imtiyazat*). The French then strengthened their hand and tried to abolish these privileges, insisting on co-sovereignty with the bey and finally attempted full control through annexation. According to Lewis, this attempt at increased control catalyzed anti-colonial nationalist resistance.

Lewis’ book has ambitious theoretical, historical and historiographical claims and contributions. Following Frederick Cooper and Lauren Benton, she wants to reframe the way we see colonial history, specifically relations between the colony and the metropole as separate spheres and the way law structured social change. She views the phenomenon of colonialism as a multiscalar project crisscrossing international, regional, local and personal (jurisdictional) boundaries on the ground. Working out sovereignty arrangements in the protectorate on the ground spurs social and juridical change in more abstract levels of governance. The book becomes ultimately a history of categories developed through the implementation of law in the social world. A second theoretical aim has to do with the history of French colonies and French colonialism in general. French colonies were not ruled uniformly; there were variations—the difference between assimilationist annexation and the associational protectorate, being just one example. She wants to erase the binary that has defined heretofore the rigid zero-sum game distinction between colonizer and colonized in the presence or absence of power. In addition she demonstrates that states based on "territorial sovereignty over bounded space" developed alongside the

imperial project of creating a system of territorial differentiation (like a protectorate or a mandate) that recognized sovereignty by degrees in a social hierarchy of enforced tutelage (p. 41).

We follow the imposition of the protectorate through its first three years until the revocation of the “capitulations,” meaning consular jurisdiction and extraterritoriality. (She names, but largely excludes, concession agreements and military conscription from the analysis of the capitulations). Lewis’s analysis is nuanced and at its most brilliant in the early stages of the transition from beylical state to protectorate, when she lays out the relay effect of geopolitics on local conditions and back again. The British takeover of Egypt in 1882, the Italian takeover of Libya in 1911, the French seizure of Morocco and French expansion into West Africa all impacted the local situation in Tunisia, as well as the management of international rivalries. With tenacious nuance, Lewis points out the contradictions and the conceptual acrobatics French jurists used to justify, maintain, and strengthen their rule. She demonstrates convincingly how colonial policy evolved and was limited by the exigencies of the local situation as structured by the geopolitics of the region. Colonial policy in Tunisia was a carefully crafted compromise hammered out by the limiting factors of international politics and self-interest.

The original intent of the capitulations was to attract foreign investment using favorable, even preferential terms and to keep foreign nationals from being subject to beylical rule. Consular protection began as a way to secure special legal rights for embassy personnel and expanded into a system in which states sold protection to local subjects, especially religious or ethnic minorities, as a way to extend their nation’s interest or facilitate commerce in the country. Gradually European investors and nationals used these terms to their advantage, creating sovereignty holes in the bey’s authority—a state, indeed several states, within a state.

Lewis analyzes the regime of capitulations across three axes: extraterritoriality, economic concessionary regimes, and the military, but spends most of the book analyzing extraterritoriality. Although force initiates the colonial regime, military or coercive power is almost invisible in the rest of the book, eclipsed by a process of almost gentlemanly negotiation and trade-off between mostly European subjects, protégés, and their patron powers. Commercial cases or arrangements are not discussed until much later and not in great detail, when protecting most favored nation trading status might have been the most important aspect preventing the exercise of unitary sovereignty. Not all the consular disputes were about personal status or issues of criminality. The Tunisian market openly traded concessionary privileges, except for the industries the bey controlled that were state monopolies of staples (like salt, coal, or candles). Capitulations worked in tandem with monopolistic economic concessions, giving nationals hailing from a particular country economic or trading rights over an entire industry. For example, Italian nationals controlled the tuna concession of Sidi Dawoud (later, the tramway system) and the English, the sale of gunpowder in the Regency.

Residents exploited legal loopholes, jumping jurisdictions to obtain better terms and decisions in personal status disputes (especially involving inheritance and marriage) therefore demonstrating local agency. Hence, as Lewis attempts to show, French colonial power was malleable, responsive to local circumstances, and not absolute. She provides countless examples to try and hammer this theoretical point home: the colonizers were not all-powerful against a supposedly dominated colonized populace. There were fissures in power and governance through the rule of law demonstrates this. But who exactly was exercising this agency?

The French were a minority in the protectorate, outnumbered by Italians and Maltese. Tunisia could not be the paradigmatic settler colony, since its European component was fractured between three nationalities with their own protectors and the French had the smallest population of the three. Because sovereignty was not recognized in Tunis at the international level there was no *jus soli* nationality that could not be inherited through birth, even though some expats had been living in the Regency for generations and may never have set foot in a European country. She employs the hybrid category of

crypto-Tunisians (a term she borrows from Julia Clancy Smith's work) in referring to these people. It is not until p. 19 that we actually get the numbers: Italians, 11,200; Maltese (British subjects), 700; and French, 700 (other nationalities and their consular offices like Greeks are not mentioned). So we are talking about 20,000 people out of a total of 2.2 million—that is 0.9 percent of the total population. Even adding Muslim Tunisians who later exercise agency by choosing French naturalization, we are talking about a minority of approximately 2000 to 3000, out of a population of 2 million. Together that is 1.03 percent of the population. The agency being exercised is by a small Europeanized minority. Only those who knew their rights and could travel the distances to Tunis for an appeal could avail themselves of legal remedies. The evidence, borrowed heavily from Julia Clancy-Smith's work *Mediterraneans*, centers on Tunis capital where the majority of Europeans resided, but not where the majority of the Muslim population was living. [1] Crypto-Tunisians (and their liminal counterparts, those Muslim Tunisians who had taken on French nationality) were the ones who mostly exercised agency. The Tunisian Muslim majority who did not choose French naturalization was left out.

Lewis attempts to blur conceptual binaries when analyzing how colonial authorities sorted out who were the bey's subjects, who were Europeans, and whether those Europeans or their children born in Tunisia (under French protective rule) could ever become French. Given Tunisia's position at the crossroads of Europe and Africa, with porous borders and connected to transit routes via the desert and the sea, identifying the bey's subjects would prove difficult. She gives the example of Algerians (and later after the Italian conquest, Libyans) living in Tunisia. Algerians living in Tunisia formerly treated as subjects of the bey by virtue of their religion, became French subjects in a two-step process, the first step being when the French established the Federation of French West Africa and the second, in 1902, when they completed pacification of the Algerian Sahara, incorporating the region as a territory of the South. In Algeria, identifying Muslims as French subjects did not earn them rights since discriminatory laws in the colony put Muslims in secondary status. But despite the exigencies of expediency and official secularism, she nevertheless demonstrates that the dividing line between European and non-European was religious. Jurists for the protectorate argued that Muslim subjects, regardless of geographical origin owed their allegiance to the bey, as their Muslim sovereign—therefore a clear binary was preserved (p. 71). Europeans were generally perceived as Christians.

French courts (and legal jurisdiction) were established in Tunisia, according to the Resident General Cambon, to “diminish the influence of the French military and end extraterritoriality” (pp. 61-62). In analyzing personal status cases involving property rights, bigamy, and inheritance, as well as attempts to claim identity as a protected minority (the “affair of the false Maltese,” in which locals (Tunisians) pretending to be rabbis allegedly produced counterfeit certificates of Maltese identity, allowing bearers to claim the right of British protection because the Maltese were British subjects), Lewis ignores the coercive power of law, which was applied to the majority of primarily Muslim Tunisians who lived under martial law for most of this time. This, in my opinion, gives a misleading impression that French authorities had their hands tied and were forced in all cases to negotiate a non-violent, mutually satisfactory or even conciliatory solution with recourse to the rule of law. What about the bey's troops? French authorities maintained bey's sovereignty when it came to his power to conscript troops—these were used mostly for domestic defense, policing, and were sometimes employed in Algeria. Were colonial armies kept separate from the bey's forces? By what means, she never answers. Were Tunisian subjects of the bey conscripted into the French colonial army? Although mentioned, the intersectionality of the bey's power to conscript with the French ability to recruit soldiers is not as adequately explained as the extraterritoriality of the capitulations.

The other sovereign power of the bey was to impose the *majba* or poll tax applicable to all his Muslim subjects from which Europeans, religious figures in the urban centers, and military personnel were exempt. Border populations on both sides of Tunisia were impacted, especially after the Italian takeover of Libya, and she explains all manner of contradictions resulting from upholding the bey's ability to tax Muslims and the need to identify and sort out French and European colonial subjects. To resolve the

impasse and assert control, French authorities insisted on co-sovereignty. This she writes, rested on two reforms: discontinuation of the *majba* head tax being applied to “native” (read: Muslim) beylical subjects and the creation of a new legal category, the Tunisian nationality, to which all native Muslims and Jews were to belong. How did shared sovereignty turn the colonial subject into a Tunisian national? She suggests it was the creation of the legal category of “the Tunisian nationality” that shaped Tunisian nationalism. The crisis over where to bury naturalized Muslims permanently altered the conversation of how and whether sovereignty should be shared. This conversation took place against the violence of increased land expropriation and dispossession—much of it sanctioned by colonial law—a fact that is not always recognized.

The work is weakest when it comes to explaining the rise of nationalism as a reaction to the 1923 naturalization law. By accepting French citizenship, naturalized Muslim Tunisians became subject to French secular law. This meant they had to repudiate the shari’a, an act amounting to apostasy, severing them from their Arabo-Muslim roots and punishable by death. So, when the question arose over whether naturalized Tunisians should be buried as Muslims, clashes erupted. It is not surprising that most Muslims did not choose French nationality. Colonial authorities could then feel themselves vindicated and superior by pointing out the fanaticism, backwardness, and xenophobia of a population that preferred religious rule to the benefits of modern civilization extended through legal assimilation and privilege. Or perhaps knowing that the majority would refuse, offering them an impossible choice was a way to evade responsibility for their exclusion since it was voluntary.

The book reflects a division of subject-sympathy that curiously echoes the caution against binaries (applying to colonialist analyses) in the introduction: the first half examines colonial governance and takes a sympathetic view of authorities establishing order in a divided jurisdiction. The second half shifts (in my estimation unsuccessfully) to explain the subaltern roots of the (anti-colonial) nationalist movement. Lewis ties the two concerns by claiming it was the tightening of French rule that caused a nationalist reaction. Divided rule explains French colonial governance in Tunisia, but is insufficient to also explain the emergence of the nationalist movement. She reduces the “Tunisian personality” to the person of the bey. But this does not explain why the bey did not emerge as a major force in the nationalist struggle. Lewis unintentionally gives the nationalist movement short shrift, turning it into a caricature based on the dominating personality of Habib Bourguiba. The Muslim Tunisian majority who reject French efforts at naturalization, whose dispossession has been all but invisible, and who have had no agency up until this point in the narrative, end up being portrayed as vigilantes desecrating the resting places of dead bodies. Their rebellion remains illegible, incomprehensible.

The “Tunisian personality” is a concept well developed and articulated before the French formally imposed colonial rule. In the pre-colonial era, the Tunisian elite’s understanding of nationalism (vis-à-vis the Europeans) was through the 1861 constitution. Even if the Constitution was imposed by Europeans in order to make claims on immovable property, such a document allowed the Tunisian government elite, including reformers like Khayr al-Din, to carve out extra discursive space for sovereignty. This is why the first quasi-nationalist party is called *dustur* (in commemoration of that constitution). Thus, by 1901 already, there was a separate institutional understanding of identity reflected in the people, state institutions, and independent traditions of quasi-sovereignty, independent of the Ottoman Porte.[2] Lewis has neglected the state apparatus, ruling practices, and bureaucracy of notables who disseminated the bey’s authority. The “Tunisian personality” could not be reduced to the ruling bey.

Divided Rule does not include enough evidence from the commercial archives, leaves out the violence of the colonial enterprise, and inadequately explains (national) resistance. Although the protectorate appears weak, “fractured or divided authority” does not necessarily imply a lack of coercive power. Where is the violence or its threat? When one considers that the country was under martial law during the first years of the protectorate, colonial violence is largely invisible in this work.

Much as this study tries to disrupt the binaries between colonizer and colonized, colonial policy drew the line of power and exclusion quite clearly between Christians and non-Christians. In the pluralistic legal system of European crypto-Tunisians, the dividing line was between Europeans and “Orientals,” which initially included Muslims and Jews. Even if Jews were later privileged above Arabs on the civilizational scale and therefore had easier access to legal remedy, the last dividing line was a binary based on religion.

Lewis is masterful when discussing the complexities and justifications for extraterritoriality, how French authorities contorted juridical categories to operate within inherited constraints and how they gained power through flexible negotiation and concessions. This was not a matter of principled governance, but the exigencies of the political situation. *Divided Rule* demonstrates very clearly and convincingly how law and juridical discourse were used to justify and legitimate empire. Her emphasis on connected histories and multi-scale multicausal interactions clearly shows how many factors on different scales of the colonial world impacted imperial policy. The book demonstrates how many of the legal categories like citizen and nationality that inform international law became worked out in the colonies.

NOTES

[1] Julia Clancy-Smith, *Mediterraneans. North Africa and Europe in an Age of Migration, c. 1800–1900* (Berkeley: University of California Press, 2012).

[2] See Elie Fitoussi, *L'Etat tunisien, son origine, son développement, et son organisation actuelle (1525-1901) : Etude d'histoire politique, de droit public, et de droit international* (Tunis : Imprimerie General [J. Picard et Cie.], 1901). Fitoussi, a Tunisian Jew, was a member of the Young Tunisians.

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ISSN 1553-9172