Mind the Gap

Islam, Secularism, and the Law

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A review of Julia Stephens, Governing Islam: Law, Empire, and Secularism in Modern South Asia *(Cambridge: Cambridge University Press, 2018); Brinkley Messick,* Sharīʿa Scripts: A Historical Anthropology *(New York: Columbia University Press, 2018); and Talal Asad,* Secular Translations: Nation-State, Modern Self, and Calculative Reason *(New York: Columbia University Press, 2018). Cited in the text as* GI, SS, *and* ST, *respectively.*

"Everyone appeals to past authorities all the time," Hussein Ali Agrama writes in his introduction to *Questioning Secularism*, "but it does not follow that all such appeals are therefore traditional."[1] This appeal to past authority is quite noticeable, Agrama tells us, in modern law, with its references to earlier precedents or previously enacted codes. Modern law, however, is hardly considered traditional, since its orientation appears to fragment authority, progressing onward to a liberating albeit deferred future.[2] The appeals to the past within Islam, on the other hand, become quintessential expressions of traditional authority's permanence, which continually affirm the past for its own sake. In its claim to the past, then, Islam

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is presumed to be reactionary and resistant to change, whereas modern law's references to the historical promise deliverance.

The references to the past in Islam, however, are not simply about the perpetuation of a singular authority. Tradition's temporality cannot be so easily codified as a static inheritance culled from an expansive archive.[3] Instead, tradition, as Talal Asad argues, straddles the gap between experience and expectation, in which past, present, and future reorient in relation to each other.[4] But neither is such an indeterminate inheritance simply a matter of indeterminacy of all human practice or celebrating an abstract transcendence; rather, the question is about how indeterminacy is understood and experienced in cases where its presence as an indeterminacy is also a question.[5] For example, an unresolvable tension in the Islamic tradition appears between the "divinely constituted truth" of the Qurʾan and "the humanly constituted versions of that truth," a body of knowledge called *fiqh* (jurisprudence).[6] "In this gap," as Brinkley Messick writes, "between divine plan and human understanding lay the perennially fertile space of critique, the locus of an entire politics articulated in the idiom of the *sharīʿa*."[7] The goal in *sharīʿa*, therefore, is not to close the gap but to wallow in its opening.[8] To return to the problem of the past, the questions raised in this indeterminate space emerged not to preserve past authority or public order in a resolved future but to allow for the possibility of disagreement about and cohabitation with a range of embodiments and disciplines that refused to be sutured.

In its confrontation with modern systems of law through colonial expansion and capitalist development, *sharīʿa* does not remain as such, since, as Marc Galanter argued early on, the secular state "propounds a charter for its religions; it involves a normative view of religion."[9] Though important and axiomatic now, this view can also obscure our understandings, because when this normative view of religion and therefore the secular is not followed somewhere, Agrama adeptly writes, "this enables us to say that secularism there is incomplete, partial, failed, precarious, and so on."[10] To put it another way, by upholding the normative view of the secular when examining it, we reproduce the very standards and criteria to determine success or failure of the secular. It becomes a problem of matching

content to definition. This is an especially acute problem: as Agrama argues, "secular power works by rendering precarious and even undermining the very categories on which it ostensibly depends," thereby provoking indeterminacies where scholars search for a normative rendering.[11] The crisis of secularism that scholars can often lament is therefore part of its very structure.

Moving beyond the secular's tenuous promises, Asad asks us to examine the "new institutional and discursive spaces (themselves not immutably fixed) that make different kinds of knowledge, action, and desire possible."[12] Turning our focus to these sensibilities, we find that the secular's own normative commitments are continually destabilized, because the secular is structured by a modality of suspicion. Marking the secular's interrogative power, suspicion provides a different relation to indeterminacy, since suspicion is central to maintaining vigilance against the abuse of power and authority. This tenet of the secular, which is central to liberalism, paradoxically drives the expansion of governmentality, which is dispersed into the population—striving to codify the norm through not only law but also other techniques of normalization.[13] Therefore, Agrama explains, the "endpoint is one where normalized power is everywhere, while authority is nowhere to be found."[14] But a gap remains. The gap between the norm and its application in an always precarious secular law becomes a persistent problem that requires a solution, such as increased surveillance, to maintain public order and security in a promise of a better future. This gap, in other words, incites further legal interventions to overcome the exception, which in turn draws more legal intervention—a looping effect that strives to produce a resolved end to time itself.

The solution in this looping is increased encroachment and intervention by the sovereign state in this world, rather than one adjudicated by the Divine, as we saw in the Islamic tradition. As Saba Mahmood argues, "Secularism temporalizes divine power, makes its transcendental claims immanent and worldly."[15] What emerges then is faith in the law itself, cushioned in the assumption that, as Iza Hussin writes, "the law can and should contain all things necessary to solving the problems of both state and individual, and in the conviction that the law should also contain all things necessary to

salvation."[16] Here we find two modes of relating to indeterminacy, between the norm and its application, between rules and life. We have one form of life centered in the Islamic tradition that foregrounds contingency, disagreement, and allowances through a transcendent foundation. On the other hand, once authority is divested from the Divine, we find secular regimes that strive for certainty, conformity, and resolution by centering immanent precarity and finitude. Modern law's references to the past signal its desire to overcome the gap in this world—to produce, as Samera Esmeir writes, a gapless terrain[17]—whereas the Islamic tradition's references to the past signal an attempt to cultivate coherence while recognizing human uncertainty and fallibility.

This essay explores these two modes of grappling with indeterminacy produced by the apparent gap between the norm and its application by examining three books that study law in relation to Islam. I begin by considering Julia Stephens's new book on secular law in colonial India, which highlights secularism's instability through a focus on the history of colonial governance in South Asia. Stephens traces the possibility of creative encounter between Islam and the secular law, which, in its refusal of binary distinctions, offers an unsettled future. I then examine Brinkley Messick's work on *sharīʿa* in prerevolutionary Yemen and his detailing of a complementary relation between the abstract form of *sharīʿa*, which he terms the library, and its implementation in historically contingent moments, which he terms the archive. I examine how this complementary relation is marked by dissonance. I end with Talal Asad's most recent book, which demands that we consider how at the heart of this encounter between ideal and life lies the question of translation.

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In *Governing Islam* Stephens argues against what she explains is an entrenched and artificial binary between the secular and Islam. Challenging colonial understandings that posit Islamic law as "irrational and retrogressive," Stephens contends that Muslims have argued Islamic law ensures "much the same as what secular law promised: reasoned ordered justice" (*GI*, 3). The intricacies and ambiguities of this unsustainable opposition between colonial law and Islam

then structure the analysis. How did this separation come to be and how was it challenged? Stephens asks. How are we to make sense of two archives—one that suppressed the internal logics of Islamic law by casting it the irrational and another that vociferously contested this view? Rather than locate native agency or colonial rupture in this encounter, Stephens details how Indians engaged with and subverted the law, coexisting in dynamic tension with a transformative and coercive colonial legal project. In other words, the opposition between Islam and secular law is riven by ambiguities, revealing the malleability of colonial law and *sharīʿa*. This malleability, in turn, opens up space to subvert the power and legacy of colonial governance while unsettling secularism's persistent antagonisms.[18]

Stephens locates this ambiguity in the divergence between colonial law's norm and application, underlining both "the cumulative power of law's normative scripts" and "the daily improvisations of legal practice" that troubled those ideal demarcations (*GI*, 10). This instability was exacerbated by colonial officials, who, Stephens explains, considered Indian religions irrational and therefore unable to function in the sort of singular and unified legal system necessary for an emerging unitary notion of territorial sovereignty. Life in the subcontinent, colonial officials presumed, would always trouble the secular norm because the population remained tied to irrational forms of life. These aspects of life, such as marriage, inheritance, and ritual, had to be regulated, domesticated, and communalized by a different norm—a well-developed narrative in South Asian historiography. Stephens demonstrates how the colonial state eventually narrowed Islamic legal traditions into a restricted domain of personal law in the mid-nineteenth century even though, early on, the British East India Company referenced it and extended it broadly.[19] By reducing "religious" laws to the personal, the colonial state excluded them from the sphere of economic activity, which "colonial lawmakers imagined as rational, universal, and therefore secular in nature," in contrast to the irrationality of the religious private sphere (56). This uneven division laid the groundwork for secular legal governance by domesticating and communalizing religious law into separate spheres to manage and govern the subcontinent.

But this division of law into religious and secular domains produced the uncertainty it sought to manage, since these partitions could not be enacted. Stephens foregrounds the centrality of gender in making sense of these unstable divisions of colonial governance. For example, Stephens notes, in 1856 Shumsoonnissa Begum left her husband, Buzloor Ruheem, because she suspected him of stealing her inherited fortune. This case came before the Judicial Committee of the Privy Council in 1867. The question of which law applied was a difficult one, since determining where the domestic ended and the economic began was murky.[20] The Privy Council divided her case into two and labeled "the dispute over the couple's living arrangements the 'restitution' suit and the dispute over the finances the 'property' suit" (*GI*, 58). Stephens evocatively takes us through the stages of the case, highlighting the instability and legal acrobatics of the colonial courts, which relied on their own notions of precedent rather than on any codified "religious" or "secular" law. Though unstable, the precedent set in this case had deleterious effects because, while the court returned Shumsoonnissa's property, the reasoning behind its decision declared women economically incompetent, undermining their ability to buy, sell, or gift property (66).

Yet these same instabilities that allowed the colonial state to codify its own precedents, to construct its own norm, also made secular governance "the subject of continual contestation and debate, working against its solidification into a rigid and unchanging body of law" (*GI*, 69). For example, since there were regionally independent high-court benches in different parts of India, different precedents emerged for personal law. This, coupled with the expanding public sphere and the growing number of Indian members of the judiciary, continually blurred the very boundaries of what could constitute precedent and expertise, allowing dissenting and new perspectives to enter the courts (73). Furthermore, high cost and time meant that liberal legalism could itself be circumvented, since nonstate legal forums flourished in conjunction with state courts. Therefore, though the colonial law sought to fix a normative model, it was "belied by its fluidity and dynamism in everyday practice" (84).

Nevertheless the colonial state could use such dynamism to perpetuate its own stratified logic. For example, customary law added

further instability and ambiguity to secular law by creating a different precedent with which to manage the population. By adding this further complication, colonial officials "constructed a more robustly patriarchal legal regime than would have been possible by drawing on a single source of law" (*GI*, 88). Alongside these hardened divisions between gender, Stephens examines how secular governance intervened to demarcate communal boundaries both within and between traditions. Though promulgating a policy of noninterference, the colonial state actively intervened in Islam through the law, encouraging "the formation of break-away sects while limiting Muslims' ability to manage the resulting social fallout" (130).[21] This also produced irreconcilable differences between communities, not just within Islam itself. Stephens examines these differences by considering the *Rangila Rasul* case. In 1924 Mahashay Rajpal published a tract titled *Rangila Rasul*, which mocked the Prophet Muhammad. Though brought to trial by the Punjab government under Section 153A of the Indian Penal Code, which criminalized attempts to promote feelings of enmity or hatred between classes, Rajpal was acquitted. By tying Muslim complaints and sentiments around the case to irrational anger and fanaticism, the discourse of secularism became infused with a majoritarian Hindu bias, since Hindu politicians viewed "their own religious sentiments as fully compatible with secular democracy while casting suspicions on those of Muslims" (134).

Still, the very instability of secular law meant that Muslims negotiated such strictures by refusing the "black-and-white question of whether or not religion should . . . be involved in politics" (*GI*, 147). Instead, Stephens traces the nuanced debates in the Muslim community, debates that refused the binary between freedom of expression and protection from injury. Ultimately, Ilmuddin, a young Muslim man, killed Rajpal. At trial Muhammad Ali Jinnah represented Ilmuddin and offered a rousing defense by pleading for mercy "on the grounds that Ilmuddin had acted out of feelings of devotion and injury" (151). Despite Jinnah's defense, Ilmuddin was executed. Nevertheless, for Stephens, this display in the courtroom alongside the peaceful funerals and mourning of both Rajpal and Ilmuddin demonstrates how "the law could foster empathy" by untying sentiment from irrationality as well as by empowering "intercommunal

cooperation" (151). Other alternatives remained, too, most specifically in relation to the economy, where Stephens ends by tracing the relation between Islam and the economy, a site on which Muslims sought to rethink unitary forms of sovereignty central to secular law.

Governing Islam is a wonderful book, adding to the sophisticated analyses of the secular that have asked us to consider the contradictions in secularism's history.[22] Stephens presents these issues adeptly, especially in relation to gender. In highlighting the instability of the secular regime, in many ways Stephens follows Asad's, Agrama's, and Mahmood's foundational work, which has interrogated secular sensibilities and modalities alongside the tactics of governmentality. Stephens, too, emphasizes colonial governmentality and the instability and malleability of secular law, which consolidates power through its porosity (*GI*, 14, 69). But enmeshed in this intricate web of power, Stephens claims that there is no need to be pessimistic about appealing to secular law, because what makes it worth engaging is precisely its instability. Even though deeply coercive, Stephens argues, secular law provides "room for creative subversion to occur when marginal subjects engage with courts or build law-like institutes in competition, but also in dialogue with colonial law" (18). For despite the poor record, extrajudicial violence, and sanctioned executions, secular governance can be "imaginatively engaged" through compromise and therefore "might still have a critical role to play in promoting intercommunal harmony" (154). Even though secularism's colonial and postcolonial manifestations "have failed to deliver on its core promises, whether to protect women or to reduce religious violence," we can continue to forge strategic compromises (187–88).

Instability and redemption are, however, precisely the logic of colonial law itself. As the law continually splits, hybridizing itself and becoming unstable, its ideals survive, remaining sublime and holding out promise. Therefore, as Esmeir argues, "when ideals waged their own violence, it was their violence, not their characteristic ideality, that was targeted for critique."[23] Since its ostensible goal is to produce the "ultimate human," which, in its inclusive frame, requires it to keep expelling the inhuman, secularism's core promise is, as Stephens teaches us, what is in perpetual crisis.[24] And the ongoing crisis

of this demarcation, Esmeir argues, needs sovereign intervention to resolve it, to produce the human. The ability to declare exceptions and new laws to manage its own discrepancy is precisely the instability that further entrenches the power of the secular in both colonial and postcolonial forms. The question, then, perhaps, is not simply about instability in law or life in general, nor is it about the secular's core values. Instead, the question is: How does crisis mask its failure by seducing us with the idea that the gap between the norm and its application will one day be overcome even if exclusions exist in the present?[25]

In other words, in secular forms of governance, the secular's suspicious tendency is what produces the fragmentation and instability Stephens so adroitly presents. This modality of relating to the gap between norm and life creates not only instability and indeterminacy but also the guarantee that this gap will be filled with a better future: a promise that if the secular is allowed to further its own dominion through the nation-state, it will become even more inclusive.[26] If we ignore this aspect of the secular—that it functions through the modality of suspicion to produce its exception by proclaiming authority over hope and sovereignty—we are left only with a promise of a continuous secular becoming in both our transgressions and our maintenance. In this becoming, the fulfillment of secularism's assurances remains deferred yet ever present, whispering that its self-inflicted wounds will heal if only we recover its scarred, albeit heterogeneous, history as a salve for the new cuts it continues to carve into our social skin.

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What can the Islamic tradition, intimately woven into a temporality that refuses immanent redemption, tell us about law itself without recourse to secular instability and suspicion? Perhaps we can turn to the anthropologists, who always seem to be among the historians in these times. I want to consider Brinkley Messick's masterful new book, *Sharīʿa Scripts*, to highlight a different possibility of thinking about law and its gaps without recourse to creativity or rigidity. Though it might look like an odd pairing, since Messick's work is located in Yemen, we should note that South Asia and the Middle

East are connected not simply by the ocean's epipelagic zone, marked by the pattern of redemptive trade, but also by the depth of Islamic classical history, which, as Partha Chatterjee notes, is often removed from histories of South Asia.[27] This ground, perhaps one of archaic ideals and limitations, undoes the promises of an imminent liberatory future to come central to both the secular regime and its circulatory explorations and discoveries.

Messick, too, asks us to take the classical history of Islam seriously by turning to prerevolutionary Ibb and its region of Lower Yemen in the first half of the twentieth century, when they were under Zaydī administration. The Yemeni highlands provide a particularly important site for studying *sharīʿa*, since *sharīʿa* was not separated from the polity there as it was elsewhere. Instead, "the *sharīʿa* vision of legitimate rule articulated in Zaydī jurisprudence found concrete exemplifications in a long series of imam-led polities" (*ss*, 14). Moreover, two communities of *sharīʿa* interpretation (*madhhabs*) were current in Ibb, the Shāfiʿī, indigenous to Lower Yemen, and the official Zaydī *madhhab*. This admittedly local form allows Messick to consider how written texts connected and coexisted with forms of authority, such as the "interpretative presence of a ruling imam" (9), tying together the theory and practice of *sharīʿa*. The key to this binding is to consider how the prescriptive and authoritative remained historically specific without creating an infinite interpretive regress that then requires a theoretical reconciliation.

Central to the praxis of *sharīʿa* is the relationship between the norm and life, between the script and its staging in the Islamic tradition. Against adjudicating between the social historian's hybrid context of a particular situation and the Islamicist's seamless and abstract inheritance, Messick importantly asks us to inhabit the contradictions of the binary itself in a specific spatiotemporal instance (*ss*, 9). However, though we find ambiguity and a diversity of forms, Messick does not dismiss binaries out of hand. Instead, he foregrounds the interdependent and intertwined binary that structures *sharīʿa*—the library and archive, the two major clusters of its textual architecture. These contrasting but interdependent textual realms are premised on sets of binary oppositions: cosmopolitan/contingent, general/specific, *fulān* (so and so)/proper name, atemporal/

historical, theory/practice, author/writer, and script/performance. In their oppositions, library and archive are not the typical distinction between "high" and "low" traditions; rather, library and archive "represent the complementary textual domains that together constituted the range of written expression in a given tradition or, as here, a central discipline of such a tradition" (25–26). Or, as Messick says later, the important differences between scripts and their performances resulted from the constraints of each genre, informing "their distinct but complementary discursive roles" (221).

However, this division, we learn, is not complementary in the sense that it is bound to a telos leading to a holistic pairing. Instead, the relationship between the two is a continual struggle without existing as a theoretical or an interpretive problem. Documenting this struggle itself is the project of Messick's historical anthropology, in which the local is a discursive space "opened at the meeting points of these cosmopolitan and contingent texts" (*ss*, 41). From this opening, Messick argues, a historical anthropology shows how specific writings in a library were made local by being put into dialogue with a coexisting archive (239). Messick forces us to consider this continuous shuttling in the gap between library and archive without recourse to a historical closure. Indeed, "I make no claims of mastery in my readings, nor do I exhaust the sources in question" (43). We, too, are forced into this realm. Throughout the text Messick undoes our reaching for certainty in which norm and life would coincide or necessitate theoretical intervention. Instead, he details the exceptions with great erudition while refusing to seal them in the library, an archive, or a hopeful future.

The discordance within library and archive does not arise because practice fails to match up to an ideal theory, which marks the deficiency of *sharīʿa*. This is a colonial logic, where, looking for an overlap between theory and practice, jurisprudence of *sharīʿa* becomes a failed theory with a tenuous relation to actual conduct, signaling the norm's irrationality (*ss*, 30). The gap between norm and life, for Messick, cannot be approached through suspicion, through an effort to seal it. Instead, individuals avoided approaching *sharīʿa* in this way, hence "the line between individuals concerned with library/theory and those engaged in archive/practice was fluid," refusing

our desire for clarity in its variability (217). Therefore, for Messick, the archive, as practice, is also central to the discursive tradition of Islam in its inflection of the library itself.[28] Importantly, then, the discordant relation between it and the library does not represent a failure of two modes of writing to coincide, a failure that a sovereign state or the scholar's interpretive precision must remedy.

Messick examines this fluid relation between different genres by considering how the library texts were "both models *of* and *for* particular archival genres" (*ss*, 45). The latter "highlights the intertextual production and circulation of rules and related language" (45). But as a model for the archive, this is not simply a static inheritance. To return to our earlier example, a reference to the modular form of the library was a reference not simply to the past but to a continuously synchronous oeuvre, "a textual simultaneity, a co-presence of works of differing chronological ages" (157). The ahistoricity of the library, its continual synchronicity, means that we cannot simply excavate its normative force outside its archival relation. Instead, it remains relational to the grounded temporalities and proper name of the archive (196). But this very relation undoes the library's and archive's own temporalities, since we have to conjoin them. Therefore we have to think about the archival texts "beyond their dated points in time, not only to processes of compositions, but also to textual pasts and futures" (220). In this temporal vertigo centered on the interplay between two temporal forms, we find that even the transitory and ephemeral developments in the archive, though grounded in a local context that did not travel, could impact the permanent corpus of the library without calling its norms into question (45).

Foregrounding this dialogic encounter, Messick further heightens our vertigo by refusing to consider the exception a problem that needs to be eliminated. For example, he notes how this division is unstable, since certain genres overlapped the two categories. The *muftī*'s *fatwā* and the imam's "choice" (*ikhtiyār*), Messick explains, are library forms, but each had its roots in the archive, thereby bridging the discursive categories of archive and library. For example, the *fatwā* "hovered on the border between the contextless universal address of the juridical literature and the context-rich character of archival writings" (*ss*, 167). The *muftī*, in other words, was tied both

to the textual universe of the library and the *fiqh* and to the facts of the world in the individual ruling.[29] This was quite different from a court ruling, which was interested in establishing the facts of the individual case. The *muftī*, by contrast, took the facts presented by the question as the uninterrogated point of departure (194). The *muftī*'s resulting *fatwā*, in this space, was nonbinding, albeit generalizable, unlike court judgments, which would be binding while remaining specific and were not part of an expanding doctrinal corpus.[30]

Though fluid, library and archive are not simply indistinct, a chaotic singular mass. Instead, they remain marked by a fundamental difference. Even though the formal language of the library would be placed in an altered context, which would change it, the archive does not incorporate the library into its own context. There remains an underlying difference between library and archive. For Messick, this difference can be articulated through his metaphor of a script and a particular performance. Even with strict adherence to the library, Messick writes, the script would not be entirely brought forth in the performance. In the application of *sharīʿa*, for example, "we should not expect to find the reproduction of the stage directions that appear in the doctrine at the level of archival performance" (*ss*, 144). Though conjunctural, library and archive also remain divided, since they remain contested in the library as well as in a discursive tradition more broadly.

Sharīʿa, therefore, is simultaneously fragmented and whole, unconcerned with liberating the library from the archive and thus with concretizing its form against its content. The question of how to bridge the gap does not arise. Instead, throughout the text itself Messick revises earlier statements and propositions, revealing the grammar of *sharīʿa*'s structure, in which indeterminacy is not a problem. But Stephens, too, we must recall, posits an instability in secular law. What is different? Though his study is localized and eschews broad comparison, Messick does note, while concluding his chapter on *fatwās* and choices, that "Anglo-American jurisprudence formalized analysis in terms of cases" and that "both legal traditions were oriented to fact and rule combinations, and both traced the origins of these basic combinations to events in the world" (*ss*, 194). Yet for Anglo-American jurisprudence and modern jurisprudence more

generally, what is outside—the exception—is crushed under its legal weight to maintain a consensus that will someday eliminate the gap between ideal and life. That is, to use Messick's terms in relation to Anglo-American jurisprudence, the library would remain unaltered and unaffected as its ideals—the promise of more purified ideals, a more purified library—would survive, continually strengthened through the prospect of exceptions and reconciliations.[31]

What Messick brilliantly demonstrates, then, and what makes *Sharīʿa Scripts* an immensely appealing and worthwhile text is that the library and archive are complementary in their dissonance, which is animated by an enchanted relation to the Divine. To be sure, the length of the book itself avows the impossibility of the project of creating a complementary relationship, since the archive and the library continually disrupt each other, refusing adjudication and therefore requiring even more chapters detailing the continuous production of exceptions. Messick admits it when he cannot explain such occurrences (*ss*, 376). That is, Islam, or is it life, remains essentially itself, dissonant to the very attempt to separate its scripts from its staging.[32] The gap is not a problem and requires no conclusion even as library and archive inflect each other, even as they remain in accordance. *Sharīʿa*, then, unlike the secular, does not promise a sutured gap disavowing its contradictions for a redemptive future or an interpretative delirium. Instead, *sharīʿa* requires that individuals dwell within the contradictions with no future promises or guarantees of a solidified and bounded order even while existing as a totality.[33]

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The question regarding norm and its application, both Islamic and secular, may be one of translation. Talal Asad has continually directed our attention to these questions and returns to them in his new book, *Secular Translations*, an expanded version of his Ruth Benedict lectures at Columbia University in April 2017. Asad's concern is not with the abstract principles and core values of secularism but with its sensibilities and tendencies. One of secularism's most important sensibilities, Asad argues, is its conviction that "one has a direct access to the 'truth'" (*ST*, 3). To investigate the secular's norms directly would repeat its very conviction, regulating the possibilities

of our own investigations. Against this, Asad foregrounds the premise that the object one grasps for is not fully known and therefore requires an indirect approach. Much as in his earlier work, where he probed the shadows to better understand the secular's grammar, Asad takes us through a diverse array of histories of the Islamic tradition, along with risk and insurance and contemporary US politics, to consider the secular and translation. Likewise, I will take an indirect approach to Asad's book, loosely tying together through his work the multiple strands of argumentation in this essay.

Such an indirect approach leads us to numerous other questions. For example, what does it mean to translate a norm into life, a theory into practice, and a library into an archive? What does it mean to even ask such a partitioning question? As Asad reminds us, "Translation is never a direct move from discourse A to discourse B because it always involves an interpreting (mediating) sign X" (*ST*, 4). The conviction of direct access, however, annihilates this mediating sign, since there is no need for mediation. And when A and B do not magically align, a sovereign power intervenes to make B as such, to make it A. B, in this translation, is turned into an abstract entity such as a number or, today, information in which it is made easily accessible and translatable. Secular reason's dependence on mathematization and calculability therefore leads it to construct abstractions removed from forms of life. But the abstract notion of the human allays the dangers this brutal translation poses; it creates an ideal that quells our worries in the forceful remaking of our world. Or, "regardless of the increasing ability of the state to use violence and manipulation in its overriding commitment to maintain itself," the promise that we will remain human persists, functioning as an object of solicitude in our destructive times (145).

Asad troubles our desire for this direct-access translation, for a one-to-one correspondence. For example, the question of whether one should be for or against modernity, Asad argues, involves this type of translation and is therefore inadequate. It is our desire for coherent and singular stories about concepts and a better future that forces us to reify such terms. Reorienting this desire, Asad contends that the crucial project is to consider how words such as *modernity*, *religion*, *politics*, and *secularism*, alongside their unstable

vocabularies, are interwoven with modes of life. In other words, following Ludwig Wittgenstein, we need to attend to "the particular character of that intertwining, to what opponents claim or reject as the 'proper' meaning of these terms," the game within which consensus and dispute occur, rather than deduce any core value (*ST*, 147). As Asad provocatively writes, "There is no 'real liberalism,' although in everyday life people speak meaningfully of 'liberal' and 'illiberal' actions" (21). The same is true for secularism and our desire for its core values. The key is not to focus on stabilizing definitions but to consider how people come to terms with concepts, how they use them, and how they authorize and cohere them. Here, then, we return to an earlier point. The question of the instability of a concept is not about indeterminacy of language universally or a problem of human nature but about how forms of life and language games produce and allow us to understand the "ambivalences and gridlocks that exist in our collective form of life" (11).

Language is intertwined with practice; "translation is therefore a continuous and necessary feature of everyday life" (*ST*, 25). But what does translation constitute? Of course, there is no easy answer. The question of translatability is, as Asad writes, "always a matter of *what* can be translated and how" (8). To elucidate his claims, Asad zeroes in on Jürgen Habermas's proposition that religious discourse, assumed to be particular and obscure, be included within a public sphere "so long as what they say is translatable into a universally understandable language, one therefore accessible to nonbelievers too" (43). However, as Asad argues, this is an abstract understanding of translation, considering only the substitution of one word for another. Language itself is much too indeterminate, opaque, and evocative for such a contractual reading. For example, some expressions that poets and prophets put forth are used and heard in ways that are not under strict control in an abstracted cognitive process. Language, therefore, is not a neutral system for describing and arguing, as Habermas would have us believe.

In contrast to Habermas, Asad asks that we recognize an unfamiliar language in its very obscurity, in its resistance to translation. Following Walter Benjamin, Asad holds that this encounter with an impediment to translation provides an occasion for us to consider "the

limits of our language in imagining and living another form of life" and thus allows us to inhabit our failure—a task central to anthropology (*ST*, 51). This impediment also signals a different relation to translation and indeterminacy in the Islamic tradition. In other words, it is not simply the presence of Divine certainty in these questions that allows for a different mode of relating to the gap in theory and practice; rather, it is the "unavoidability of human uncertainty—as expressed in the process of translation/interpretation" (60). The problem with translation is not simply that the Qurʾanic text is untranslatable as such but that the practices, attitudes, and sensibilities associated with the act of worship in a liturgical context are also untranslatable. This nontranslatability makes it difficult to settle into a political, ecclesiastical, or even historical order not only the Qurʾan but also the people, practices, and argumentations surrounding it, a central task for contemporary state power.[34]

This relation of untranslatability, therefore, is not between an individual and God, is not confined to the question of belief, but concerns an entire tradition. In the Islamic tradition, Asad argues, much like Messick, *sharīʿa* is not codified so easily, refusing its placement strictly into the category of law, since it includes not only what is prescribed (*wājib*) and forbidden (*harām*) but also positive and negative commands (*makrūh* [disapproved] and *mustahab* [approved]). Importantly, there exists a third mediating category, *mubāh*, describing what is free and open to everyone, which remains indeterminate though at times pulled in either direction. In this sense, *sharīʿa* refuses the demarcations and differentiations essential to the secular.[35] To trace these lineaments of tradition, however, is not to demonstrate authenticity or uphold essentialism as such. Rather, again we must come to understand the way authenticity and essentialism are understood, mediated, and lived.

In a discursive tradition, Asad argues, the focus is "on the ways language directs, justifies, and permeates the senses of the living body through the repeated performance of virtuous action, thought, and feeling" (*ST*, 92). Moreover, the temporality of tradition is troubling, since the past is not a simple inheritance. The past is translated into the present, but we must recall that there remains an impediment to this translation. The question around discursive tradition,

therefore, should be not about authenticity, obedience, or a search for origins but, as Asad writes, about "learning to live without justification" within the grammar of the tradition itself, which necessarily comprises argumentation (93). This includes contestations about what an essence is, which cannot be reduced to authenticity. As Asad writes, "A concern for 'essence' is not quite the same as a concern with authenticity," especially when the essence itself precludes the possibility of adjudication even while structuring its parameters (95).

To circle back to our original inquiry: How are norms conceptualized in a discursive tradition? In the Islamic discursive tradition, for Asad, epistemological questions concerning *sharīʿa* norms (*usūl al-fiqh*) are central to how they "articulate the care of the soul" (*ST*, 94). These questions are not meant to translate with ease across time and space. The goal of a discursive tradition is not to abstract from the past and then apply a chain of ideas in the present. Instead, the focus is on "behavioral customs and the sensibilities they teach and regulate in the process of disciplining the soul" (94). In this setting, the key is building relationships with others who can confirm correct practice by reasoning in context. In other words, the proper performance of practices depends not, as we have seen with secular law, on abstract concepts and rules that depend on an overarching Reason but on learning how to conduct oneself in a community that can confirm its properness. The concern is not about creating essential structures of Islam, or the secular for that matter, but about considering the sensibilities and attitudes within their shifting parameters and examining how each grammar relates to and conceptualizes the very question of indeterminacy—a question foreclosed today within secular coordinates.

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In our present world, however, Asad argues, "discursive tradition becomes increasingly difficult to maintain" (*ST*, 132). The problem is not the incompatibility of modern law and *sharīʿa* but the requirements made on tradition, its sensibilities, and ways of organizing in a particular historical moment. The modern state, with its increasing encroachment and promises, demonstrates a different time in which

experiences are shed quickly for an approaching horizon. In this time, every problem has "a solution waiting to be discovered, sooner or later, and . . . therefore in principle nothing is impossible" (152). The past does not constrain or limit; we are, instead, liberated from its depth. A legal precedent signals either the desired end of history or simply an impediment that needs to be cleared through a better interpretation or purer ideal, paving a neat road to future progress.[36] With this assurance, everything in this world is knowable, predictable, and controllable.

The dehiscence at the very heart of tradition is closed, marked now by probability, worrying numbers highlighting unstable nation-states and rising fundamentalisms. This closure stills the very encircling, the looping effect, central to the Islamic tradition and its generative power built through mutual care and responsibility. But does it halt? Who is unwounded in this world? The troubling question we are left with is how we can identify this wound by undoing the surgical repair of the secular. An odd choice indeed, since then an injury is the antidote; a poison is the cure.[37] Looking toward other forms of life, however, such as Islamic law in Yemen, can perhaps reorient our own secular desires and teach us how to maintain a distance while also rejecting the self's admittance into what can quickly turn into its own crypt of historical certainty.[38] It is the very attempt at translation and its repeated failure, as Stephens, Messick, and Asad all point out in varying ways, that demonstrates such a possibility of contemplating the reinstitution of this opening while minding the gap it unfastens.[39]

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Notes

1. Agrama, *Questioning Secularism*, 14.
2. Asad, *Formations of the Secular*, 218.
3. Haj, *Reconfiguring Islamic Tradition*, 5.
4. Asad, *Formations of the Secular*, 223. For an insightful analysis of Asad's conceptualization of time and its anithistoricist position, see Iqbal, "Chronopolitics of Tragedy in the Anthropology of Secularism."
5. For an analysis of the problem of interpretation and law, see Marmor, *Law and Interpretation*.
6. Messick, *Calligraphic State*, 17.
7. Messick, *Calligraphic State*, 17. Or, as Wael Hallaq argues, "*Fiqh* was not an abstraction, nor did it apply equally to 'all,' for individuals were not seen as indistinguishable members of a generic species, standing in perfect parity before a blind lady of justice" (*Sharīʿa*, 546). See also Ewing, *Sharī at and Ambiguity in South Asian Islam*.
8. For example, when loopholes in *sharīʿa* emerged, Agrama contends, they were "not seen as problems to be overcome; rather, they were elaborated and incorporated as part of legitimate *Shariʿa* jurisprudence, as ways of providing remedies to people who were in difficult circumstances" (*Questioning Secularism*, 143).
9. Galanter, "Hinduism, Secularism, and the Indian Judiciary," 479. See also Cohn, "Law and the Colonial State in India"; and Asad, *Formations of the Secular.*
10. Agrama, *Questioning Secularism*, 25.
11. Agrama, *Questioning Secularism*, 26.
12. Asad, *Formations of the Secular*, 217.
13. Foucault, *Security, Territory, Population*, 56. See also Foucault, "Governmentality"; and Foucault, *"Society Must Be Defended."* For governmentality in colonial India, see Sturman, *Government of Social Life in Colonial India*; and Kalpagam, *Rule by Numbers*.
14. Agrama, *Questioning Secularism*, 141.
15. Mahmood, *Religious Difference in a Secular Age*, 21.
16. Hussin, *Politics of Islamic Law*, 234.
17. Esmeir, "On the Coloniality of Modern Law," 41.
18. It is important to note, however, that *secularism* is not actually a term deployed by colonial officials; it became current only with late nationalism. For more, see Tejani, *Indian Secularism*, 15.
19. Sturman, too, argues that the impact of colonial law and its utilitarian ethos was attenuated until the 1880s, when there was an attempt to

systemize law in a uniform manner in which "liberal norms and dilemmas acquire[d] expansive force across the domains of secular civil law and colonial Hindu law" (*Government of Social Life*, 17).

20. See also Birtla, *Stages of Capital*, 52.
21. Numerous scholars have made this argument in relation to noninterference. For example, see Sharafi, *Law and Identity in Colonial South Asia*, 235.
22. For example, see Adcock, *Limits of Tolerance*.
23. Esmeir, *Juridical Humanity*, 244.
24. Esmeir, *Juridical Humanity*, 92.
25. The question is not about ideals, then, but about political entailments. For an analysis on liberalism that undertakes such an interrogation, see Mantena, *Alibis of Empire*.
26. Abeysekara, *Politics of Postsecular Religion*, 240.
27. Chatterjee, "History and the Nationalization of Hinduism," 149.
28. Messick follows Asad. For Asad's understanding of discursive tradition, see Asad, "The Idea of an Anthropology of Islam"; and Asad, "Thinking about Tradition, Religion, and Politics in Egypt Today."
29. For example, in *Sharīʿa Scripts* Messick writes, "In their fatwas, muftis spoke of the law and its indications, but they were prompted to do so by the facts of particular world situations" (170–71). Fahad Ahmad Bishara also examines how Islamic law cannot simply be abstracted but must be situated in different contexts, connecting concepts to objects while remaining a fundamentally malleable grammar (*Sea of Debt*, 255).
30. The presence of an imam is central in the specific setting of Yemen, where the imam embodied a direct connection between the *fatwā* and the court setting, unlike in other regions (*ss*, 170).
31. Esmeir, *Juridical Humanity*, 271.
32. Asad, *Genealogies of Religion*, 290.
33. Asad, *Formations of the Secular*, 179.
34. See, for a translation into historical context, Sartori, "Property and Political Norms," which explores Hanafi *fiqh* in colonial Bengal.
35. Anidjar, *Semites*.
36. Povinelli, *Economies of Abandonment*, 93, 96.
37. Derrida, *Dissemination*. See also Comay, *Mourning Sickness*, 130.
38. The question of melancholia drives this line of inquiry. For crypt and melancholia, see Anidjar, *Blood*, 191–203.
39. See El Shakry, "History and Lesser Death."

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