

The Queen's Urdu: Translating Colonial Secularity in Victoria's 1858 Proclamation

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IT is something of an understatement to call 1857 and 1858 watershed years in the history of South Asia. In May 1857 Indian soldiers in Meerut mutinied after rumors began to circulate that their cartridges were greased with cow and pig fat (offensive to Hindus and Muslims, respectively). An uprising spread across North India until it was finally quashed in June 1858.¹ As embers smoldered in cities like Delhi and Lucknow, a “paralyzing dread,” in Christopher Herbert’s words, enveloped the British psyche. As Herbert explains, the event took on a significance in the Victorian consciousness that was out of proportion to the number of casualties. The American Civil War and Crimean War, the closest contemporary points of comparison, were vastly bloodier, yet 1857 became the “Red Year,” symbolized by “rivers of blood” and “fields of carnage.”²

According to Herbert, 1857 “vindicate[d] a retributive view of the world” in the Victorian consciousness.³ Retribution against innocent Indians, in fact, prompted the first viceroy of India, Charles Canning, to seek to turn the tide in the direction of peace. Canning issued a resolution on July 31, 1857, granting clemency to most Indian participants in the rebellion, earning Canning the satirical sobriquet “Clemency Canning” in the British press.⁴ But Queen Victoria had a role to play, too, in tamping down the calls for vengeance. She saw herself, at least in part, as an irenic, matriarchal presence. Victoria “started out with the martial and evangelical prejudices of her age, wanting to conquer and convert India. That did not last,” argues Miles Taylor. “The Indian rebellion of 1857–58 changed her views completely, as it did for many Victorians—only that Queen Victoria moved in the opposite direction, becoming more sympathetic to India and its people, not less, and

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Victorian Literature and Culture, Vol. 52, No. 1, pp. 104–127.

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doi:10.1017/S1060150323000736

growing more tolerant and less instinctively racist than her fellow Britons.”⁵ As we will see in greater detail below, Victoria insisted, against the judgment of evangelicals in her cabinet, on issuing a statement of religious tolerance to the people of India (Taylor 6–7). This is the background for the queen’s famous proclamation of November 1, 1858.

This article argues that Queen Victoria’s 1858 proclamation ushered in a new era of colonial secularity. By “colonial secularity,” I mean the myriad ways that normative distinctions between religion and not-religion (e.g., politics, culture, etc.) emerged and proliferated in colonial contexts. “Religion,” in the proclamation, is limited almost exclusively to belief and worship. The proclamation commits not to interfere in religion, but “religion” is truncated and circumscribed, reconceptualized largely as a matter of private conscience. The proclamation was far more than a statement of religious tolerance; it fashioned religion as a space of private conscience distinct from the space of politics and governance. Entire dimensions of Indian lifeworlds—e.g., in the case I examine below, Islamic criminal law—were placed outside the boundaries of “religion” normatively construed. It is for this reason that Ayesha Jalal saw the proclamation as a “sleight of hand by which the colonial masters chose to tolerate some debate and dissent” but only insofar as it pertained to “religious and cultural concerns.” It was thus an “attempt at denuding religion and culture of politics.”⁶ Though it is unlikely Victoria intended it as such, the proclamation was a powerful instrument of rule, and the concept of “religion” it advanced worked as a disciplinary category. More broadly, it was also a preeminent instance of ways that India became, as Gauri Viswanathan and others have long observed, a space for testing out modern, secular concepts in practice.⁷ As Cassie Adcock has argued, the proclamation established “*neutrality*, *non-interference*, and *religious freedom* as reference points for policy and for colonial politics in the civic arena.”⁸ Indeed, J. Barton Scott has recently argued that India “was, and remains, a major laboratory of secular modernity,” adding, “just as British secularism cannot be extricated from India, Indian secularism cannot be extricated from Britain.”⁹

Paradoxically, the proclamation governed “religion” in the very act of placing it beyond governance. As Hussein Agrama, Elizabeth Hurd, Winnifred Sullivan, Jolyon Thomas, and many others have shown us, when states attempt to stay above the fray of religion, they paradoxically intertwine themselves with it. They must define religion to keep it at arm’s length. Thomas’s definition of secularity is apropos here: “the paradoxical situation in which the act of sequestering religion from

not-religion constantly begs the question of how the operative terms should be defined.”¹⁰ In short, the proclamation is yet another example of the way that secular regimes perpetually generate disjunctures between the freedoms they purport to protect and the freedoms they curtail. As we will see, the contradictions generated by this regime were a product, in part, of British presuppositions that India was an essentially religious place and that Indians were inherently religious, producing the conceptual dilemma of how to demarcate religion from not-religion in a context where everything was always already “religious.”

In keeping with the theme of this special journal issue, the focal point of this article will be the way in which vernacular translations of the proclamation sought to translate this colonial secularity into an idiom that, in the case of the Urdu translation examined here, pressed Indo-Persian religio-political vocabularies into the service of a secularizing regime. It will give particular attention to the public/private distinction that the proclamation engenders. It does so in two ways. First, it examines the gradual elimination of Muslim criminal law after 1858. Indeed, within three years of the proclamation, the British had dealt the final blow to Islamic criminal law in India, a process that had begun as early as 1790. How was this not direct interference in the religious lives of Muslims? It was not, according to the ethos of the proclamation, because its conceptualization of the boundary between “religion” and “nonreligion” consigned criminal law to the latter. If religion is normatively private, and criminal law is normatively public (meaning, within the purview of the state), criminal law falls outside of religion. Second, it explores the extent to which Britons themselves resisted the privatization of religion the proclamation sought to effect. The article will demonstrate this with reference to the bitter opposition to the proclamation by British missionaries who felt that the new dispensation curtailed their ability to proselytize, but it will also show how missionaries found a loophole, purporting to proselytize only in their capacity as “private” citizens, even when some were employed by the colonial government. We will also see how these missionaries’ texts are products of what Hussein Agrama called the “questioning power” of secularity, a “process of continual questioning facilitated by the precariousness of its own normative categories.”¹¹ Thus, they asked, does “caste” fall within “religion”? What about teaching Western science, to the extent that it contradicts native religious worldviews? If Indians consider the Ganges holy, do hydraulic modifications to the river constitute “interference” in native religious life? These questions were meant to show up the absurdity of

noninterference and thus the absurdity of the proclamation's restrictions on their activities. In short, then, on one hand the proclamation isolated and even eliminated native religious lifeworlds—this is the proclamation's disciplinary work. On the other hand, some Britons in India resisted the disciplinary work of the proclamation as it applied to *them*, arrogating to themselves a religious exceptionalism that allowed them to continue to “interfere” in Indians' religious lives.

1. CRAFTING AND PROMULGATING THE PROCLAMATION

On August 2, 1858, the Crown officially took over India from the East India Company. In mid-August of that year, Queen Victoria asked the Conservative prime minister Lord Derby (1799–1869) to draft a proclamation to commemorate the transfer of power. When Foreign Secretary Lord Malmesbury presented Derby's draft to Victoria, she told him that it “must be almost entirely remodelled” (Taylor 81). Facing pressure from evangelicals, Derby had declared that the Crown had the “power of undermining” Indian religions. The queen asked Lord Malmesbury to explain to Lord Derby her objections to the draft. Lord Malmesbury wrote:

Her Majesty disapproves of the expression which declares that she has the “power of undermining” the Indian religions. Her Majesty would prefer that the subject should be introduced by a declaration in the sense that the deep attachment which Her Majesty feels to her own religion, and the comfort and happiness she derives from its consolations, will preclude her from any attempt to interfere with the native religions, and that her servants will be directed to act scrupulously in accordance with her directions.¹²

Malmesbury urged Derby to bear “in mind that it is a female Sovereign who speaks to more than 100,000,000 of Eastern people on assuming the direct Government over them after a bloody civil war, giving them pledges which her future reign is to redeem, and explaining the principles of her Government.” Thus Victoria instructed that the “document should breathe feelings of generosity, benevolence, and religious feeling, pointing out the privileges which the Indians will receive in being placed on an equality with the subjects of the British Crown, and the prosperity following in the train of civilisation.”¹³

Reaction from British evangelicals was swift, as we discuss in more detail below, but Victoria personally insisted on the language about religion (Taylor 82). In a letter to Charlotte Canning, wife of the governor-general, Victoria wrote that “a fear of their religion being tampered with is at the bottom of [the 1857 revolt]” (Taylor 71). As Michael

Ledger-Lomas has argued, “Although Victoria had understood the rebellion in religious terms . . . the neutrality of the proclamation was her achievement, after facing down efforts by Darby’s government to take evangelical sensibilities into account.”¹⁴ The proclamation was dispatched to India and received by Canning on October 17. When Canning approved the proclamation’s language on religion, Victoria “rejoice[d],” as she “strongly insisted on it.”¹⁵

From this point onward, the government made plans to promulgate the proclamation. Canning’s private secretary, linguist Lewin Bowring (1824–1910), oversaw translation of the proclamation into Indian languages (Taylor 86). Once the translations were completed, Canning undertook an extensive tour of North India as the face of the new political dispensation. During carefully staged *darbars* (an anglicization of the Persian word *darbar*, “court”), titles such as *raja*, *nawab*, *khan bahadur*, and *rai bahadur* were doled out to princes and nobles who had shown loyalty to the British in 1857. These events were thus redolent of Mughal-era symbolism and reflected an effort to maintain some degree of symbolic continuity between the Mughal rule that ended officially with the exile of Bahadur Shah Zafar (r. 1837–57) and the advent of Crown rule.¹⁶ (Ironically, Bahadur Shah was convicted of treason and exiled to Burma just days after the proclamation was issued.) With the proclamation, the British, in Mithi Mukherjee’s words, “sought to demonstrate to Indians that the country was not really a colony under foreign rule, but simply a kingdom or empire as it had always been, and was most recently under the Mughals.”¹⁷ Indeed, even as late as 1877, with the *darbar* that would confer the title of “Empress of India” on Victoria, the Mughal-era symbolism was explicit. As then-Viceroy Lytton stated, the *darbar* was meant to “place the Queen’s authority upon the ancient throne of the Mughals, with which the imagination and tradition of [our] Indian subjects associate the splendour of supreme power.”¹⁸

Charles Ball’s *History of the Indian Mutiny* recounts in vivid detail how the proclamation was promulgated and how it was received in various locales. The most important event, from the Crown’s perspective, was the reading of the proclamation aloud in Allahabad. Ball relates that a “platform covered with crimson cloth and emblazoned with the royal arms” was set up, along with a “richly gilded and ornamented chair” for Lord Canning, after which the proclamation was read aloud in English followed by Urdu. A similar event took place in Lahore, where it was also read in English and Urdu. In Bombay, it was read in English and Marathi.¹⁹ In Cuttack, the commissioner of Orissa read the

proclamation in English aloud to approximately twenty thousand people assembled on parade ground, after which it was read in Bengali, Oriya, and Telegu.²⁰ All readings were accompanied by displays of troops, fireworks, rockets, and the lighting of public buildings.

2. THE TEXT AND RECEPTION OF THE PROCLAMATION

Let us turn now to the text itself. The following section provides excerpts from the proclamation alongside relevant excerpts from the official Urdu translation. It gives particular attention to the ways that the proclamation functions rhetorically, grounded in Indo-Persian religio-political vocabularies and Mughal-era notions of feudalism at the same time that it advances characteristically British Protestant notions of “good” religion: private, apolitical, and interior.

The proclamation begins with a string of honorifics for the queen: “Victoria, by the grace of God (*fazl-i khuda*), of the United Kingdom of Britain and Ireland, and of the colonies and dependencies thereof in Europe, Asia, Africa, America and Australasia, Queen, Defender of the Faith (*zahir ul-mazhab*, lit. ‘ally of religion’).” However, the Urdu translation adds a phrase to “Defender of the Faith” that is not present in the English original, indicating that the proclamation is issued for the benefit of “elite and commoner alike” (*khass o ‘amm mein*). This invokes a centuries-old distinction that had particular salience in Mughal contexts, in which *‘amm* connoted the common, vulgar, and lowly but also the “public,” and in which *khass* connoted the elite, the noble, and the scholarly but also the “private.”²¹ The proclamation will elaborate on this implicit public/private distinction in more depth, as we will see below.

The proclamation continues:

Whereas, for diverse weighty reasons (*bi-wujuh-i kamila*), we have resolved, by and with the advice and consent of Lords spiritual and temporal (*millati aur mulki*) and Commons in Parliament assembled, to take upon ourselves the government of the territories in India (*mulk-i hind*) heretofore administered in trust for us by the Hon. East India Company. Now, therefore, we do by these presents notify and declare (*i‘lan farmate hein*) that, by the advice and consent of the aforesaid, we have taken upon ourselves the said government (*mulk*); and we hereby call upon all our subjects (*ra‘aya*) within the said territories to be faithful (*wafadari*) and bear true allegiance (*ita‘at*) to us, our heirs, and successors, and to submit to the authority (*farman baradari kiya karein*) of those whom we may hereafter from time to time see fit to appoint to administer the government of our said territories, in our name and on our behalf.²²

From the beginning of the proclamation, then, multiple registers of Indo-Persian religio-political vocabulary, spatiality, and authority are invoked: *mulk* (kingdom), *mulki* (worldly), *millati* (otherworldly, i.e., religious), *ra'aya* (subjects), *farman* (edict, order). This had at least two functions: signaling continuity with Mughal authority and signaling support for India's many Mughal-era feudal elites. Bernard Cohn thus long ago pointed to a tension in the proclamation between "two divergent or even contradictory theories of rule," namely feudalism and liberalism.²³ Building on Cohn, Barbara and Thomas Metcalf have argued that, on one hand, the proclamation reinforced the political authority of India's princes, reversing Dalhousie's policy on adoptions, which had permitted the East India Company to annex any princely state in which the ruler had not produced a "legitimate" heir. In the wake of 1857, the British saw these princely relationships as a bulwark against another revolt. On the other hand, the proclamation exudes a mid-nineteenth-century liberalism that undermines the very conservative principles which the rest of the proclamation sought to undergird.²⁴ We see this in the tension between demands for subjects' loyalty and obedience—Indians are to be "faithful" and "bear true allegiance"—and a certain degree of self-imposed governmental accountability—"We hold ourselves bound to the natives of our Indian territories by the same obligations of duty which bind us to all our other subjects; and those obligations, by the blessing of Almighty God (*khuda ke fazl se*), we shall faithfully and consciously fulfill." We see the same tension elsewhere between articulations of feudalism—e.g., "We hereby announce to the native princes of India (*waliyan-i hind*), that all treaties and engagements (*'ahd o paiman*) made with them by or under the authority of the Hon. East India Company are by us accepted, and will be scrupulously maintained: and we look for the like observance on their part"²⁵—and articulations of liberalism—e.g., "We shall respect the rights, dignity, and honour of native princes as our own; and we desire that they, as well as our subjects, should enjoy that prosperity (*sa'adat*) and that social advancement (*fan-i akhlaq ki taraqqi*) which can only be secured by internal peace (*sulh*) and good government (*nek intizami*)."²⁶ The last line here seamlessly melds together Mughal and English Utilitarian principles of just rule—*sulh* (internal peace) and *nek intizami* (good government), respectively.²⁷

Finally, we get to the heart of the proclamation's reformulation of colonial religion:

Firmly relying ourselves on the truth of Christianity (*mazhab-i 'isai ke sidq ki nisbat yaqin kulli*) and acknowledging with gratitude (*shukr-guzari*) the solace of religion,²⁸ we disclaim alike the right and the desire to impose our convictions (*'aqida*) on any of our subjects. We declare it to be our royal will and pleasure (*hukm-i shahana*) that none be anywise favoured (*kisi ek mazhab ko kisi dusre mazhab par tarjih di na jaen*), none molested or disquieted by reason of their religious faith or observances (*bi-wajh i'tiqad ya rasmiyat-i mazhabi*), but that all shall alike enjoy the equal and impartial protection of the law (*qanun ki ru se bi-ghair taraf-dari ke muhafizat*); and we do strictly charge and enjoin all those who may be in authority under us, that they abstain from all interference (*dast-andazi*) with the religious belief or worship (*i'tiqad aur 'ibadat-i mazhabi*) of any of our subjects, on pain of our highest displeasure. And it is our further will that, so far as may be, our subjects, of whatever race or creed (*qaum ya mazhab*), be freely and impartially admitted to offices in our service the duties of which they may be qualified, by their education, ability, and integrity, duly to discharge. . . . We know and respect the feelings of attachment with which the natives of India regard the lands inherited by them from their ancestors, and we desire to protect them in all rights connected therewith, subject to the equitable demands of the state; and we will desire that generally, in framing and administering the law, due regard be paid to the ancient rights, usages, and customs (*rasm o rivaj aur dustur*) in India.²⁹

In this passage, first, we can see a belief-centered, propositional approach to conceptualizing religion. The proclamation is firm in asserting the "truth" (*sidq*) of Christianity, even as it relinquishes any claim to impose this truth—a liberal position that was, at that time, scarcely a century old, and still quite unpopular among Christian missionaries, as I explore below.³⁰ But on the subject of propositional truth-claims, it is worth bearing in mind that the mid-nineteenth century was also the heyday of interreligious debate in India, which almost always took the form of debating the truth-claims of various religions' respective sacred texts.³¹ Bowring's translation thus draws parallels between Christianity's distinction between belief and worship and Islam's distinction between *i'tiqad* and *'ibadat*.³²

Second, the proclamation presupposes that religions are reified entities capable of being compared, contrasted, and, for that matter, "respected." Bowring translated the English phrase "We declare it to be our royal will and pleasure that none be anywise favoured" into Urdu as "*kisi ek mazhab ko kisi dusre mazhab par tarjih di na jaen*," a literal rendering of which would be "no religion shall be preferred over another religion." This phrase, in the English, has ostensibly nothing to do with religion as such but is "religionized," as it were, in the

translation. The comparability of religions here is underwritten by the Victorian discourse on religion's privatization—a discourse that, importantly, was never complete, nor even close to universally accepted. But it is precisely the reduction of religion to creedal formulations that have expression in “belief” that allows one religion to stand on par with another. Justin Jones eloquently describes the nature of this Victorian privatization of religion in contrast to Mughal attitudes. “This colonial, and distinctively Victorian, imposition upon India of an idea of the ‘private’ as an abode of religion was, to generalize somewhat, almost an inversion of the treatment of religion by the Muslim rulers of pre-colonial north India,” argues Jones. “Indeed, one might argue that the Mughal emperors’ patronage of public religious processions and festivals, their close personal ties to religious scholars and Sufis of public influence in their cities, and their having prayers in the congregational mosque read in their name, were acts that explicitly established religion as a public affair, as well as one of the mechanisms by which these royal Muslim households could assert their civil and political presence.”³³ In short, “Such privatized, behaviourally focused forms of religion were inextricably linked to the experience of colonial subjecthood,” Jones asserts.³⁴ It is true, however, that the proclamation also gave lip service to the maintenance of “ancient rights, usages, and customs” (*rasm o rivaj aur dustur*) that would, ostensibly, seem to transcend the realm of private belief. That being said, I would suggest this formulation is best seen as a further concession to the maintenance of a Mughal-era princely feudalism than an acknowledgment that some aspects of Indian religion may be public in nature.

How was the proclamation received among the Crown's Indian subjects—and its Muslim subjects, in particular? Naturally, there was no uniform position on the edict. Reactions varied widely, but we can discern some themes. Among Muslims, positive reactions to the proclamation generally praised its perceived liberality and generosity, and many participated willingly in the emergent discourse of Britain's “civilizing mission.”³⁵ Charles Ball credits the nawab of Bengal, Sayyid Mansur Ali (1830–1884), with being the first Indian to pen a response to the queen's edict. Pledging his “loyalty, respect, and affection,” the nawab called on “the God of mankind” to “shower his choicest blessings upon [Victoria's] family.” The nawab praised what he regarded as the civilizing effects of Crown rule: “Wherever

the banner of your majesty is unfurled, industry, arts, and science follow in its wake, and carry with them prosperity, civilisation, and education.”³⁶ It is important to note that the nawab was eager to praise Victoria; in 1853 certain princely rights and privileges that the nawabs had enjoyed were retracted, and he began a long (and abortive) campaign to get back these rights, once declaring himself “the most loyal of Her [Majesty’s] Indian subjects.”³⁷ But perhaps the most notable Muslim reaction to the proclamation came from Sayyid Ahmad Khan (1817–1898), founder of the Aligarh movement,³⁸ who spared no words in praising Victoria and her rule. “The Almighty is the preserver of our Most Gracious Majesty Queen Victoria,” Khan wrote in his tract on the causes of the 1857 uprising. “Words of mine cannot sufficiently praise the most merciful and considerate proclamation issued by Her Gracious Majesty. The hand of the Almighty is on Her Gracious head and this proclamation has been inspired (*ilham*) by God.”³⁹ The Urdu word for inspiration used here, *ilham*, implies that God was working through Victoria and even that Victoria was the recipient of divine inspiration.⁴⁰

But some powerful Muslims were as critical as Sayyid Ali and Sayyid Ahmad Khan were laudatory. One of the most forceful denunciations of the proclamation came from the Begum Hazrat Mahal (1820–1879) of Awadh, where some of the harshest recriminations against Indian rebels had taken place. The begum was also one of the fiercest opponents of the British throughout 1857.⁴¹ She condemned what she deemed to be official hypocrisy in the Crown’s attitude toward religion. That passage is worth quoting at length:

To destroy Hindoo and Mussulman temples on pretence of making roads—to build churches—to send clergymen into the streets and alleys to preach the Christian religion—to institute English schools, and pay a monthly stipend for learning the English sciences, while the places of worship of Hindoos and Mussulmans are to this day entirely neglected; with all this, how can the people believe that religion will not be interfered with? The rebellion began with religion, and, for it, millions of men have been killed. Let not our subjects be deceived; thousands were deprived of their religion in the North-West, and thousands were hanged rather than abandon their religion.⁴²

Hazrat Mahal here suggests that the proclamation is nothing but smoke and mirrors, an effort to paper over the atrocities of 1857 with empty promises. With the effects of the proclamation to which we now turn, the begum may have had a point.

3. WHAT COUNTS AS RELIGION? THE END OF ISLAMIC CRIMINAL LAW

Let us turn now to the first of two aporias generated by the proclamation. As noted above, to quote Jolyon Thomas again, these aporias call into question the “operative terms” of the proclamation in the years following its promulgation. In our first example, we will consider the abolition of Islamic criminal law in the years following 1857–58. To do this, we need to tie together two separate, but interrelated, histories: the history of the gradual marginalization of Islamic jurisprudence in India, and the formation of the India Penal Code.

It is surely one of the greatest ironies of the post-1858 dispensation that within three years of the proclamation’s commitment not to interfere in Indians’ religions, the British eliminated the last vestiges of Islamic criminal law. In fact, this only consummated a process that had begun decades earlier; the difference now was that the 1860 Penal Code, discussed below, put to rest what Rudolph Peters called the “fiction” that British justice still had recourse to Islamic criminal law.⁴³ How did this process unfold? There is an enormous amount of work on Islamic law under British colonialism in India; it is not my intention, nor is it possible, to recapitulate the breadth of this work here. But in brief, beginning in the late eighteenth century, East India Company authorities began to believe that Indians should be governed by their own “religious” laws and believed, likewise, that Indians reflexively followed their own laws.⁴⁴ This position would, in time, come to be known as the Orientalist position, to distinguish it from the so-called Anglicists, who believed India should be governed according to English ideas, norms, and principles. The Orientalist stance presupposed the inherent religiousness of the subcontinent. As Thomas Twining, an East India Company merchant, put it: “[T]he people of India are not a political, but a religious people. . . . *They* think as much of their religion as *we* of our Constitution. *They* venerate their Shastah and Koran with as much enthusiasm as *we* our Magna Charta.”⁴⁵ The means to ascertaining Islamic law, they believed, was the study of Islamic scriptural sources and legal textbooks, largely sidelining living authorities on the *shari’a* and treating legal primers as authoritative codes, which was never their intended purpose. Living embodiments of the law (*‘ulama*, *qazis*, *muftis*), in other words, were downgraded in importance and, in time, isolated completely. This process largely began in 1778, when British philologist and EIC judge William Jones (1746–1794) famously called for “a complete Digest of Hindu and Mohammedan laws, after the model of

Justinian's inestimable Pandects." Jones sought to wrest control from the "Pandits and Maulavis"—that is, from the native interpreters of Hindu and Islamic law, respectively.⁴⁶ Under Jones's direction, the company commissioned an English translation of a single thirteenth-century Hanafi legal primer, the *Guide (al-Hidaya)* of al-Marghinani, to serve as the basis for Islamic law as such. Charles Hamilton, the translator, reveals much about the intent behind the translation in his introduction to the 1791 volume. He understands Islamic law as, at once, a chaotic mess that gives individuals far too much power to interpret and implement the law, and a pristine and uniform code simply waiting to be distilled.⁴⁷ Yet Marghinani's *Guide* was never intended by its author to act as an abstract "code" of positive law; it was, rather, a reference guide to assist jurists in applying the law in real-world circumstances. In place of Islamic law's "chaotic" approach, then, a fixed "code" would permit the British to streamline and formalize legal proceedings. Islamic law was thus imagined as a "code" in a way that was relatively unprecedented in the precolonial era.

Within the same scheme, crimes ceased to be, as they are in traditional Islamic law, cases between two parties, accused and accuser, and began to function as cases between the accused and "the state." Islamic law was, moreover, deemed to be "arbitrary" in nature; jurists and the families of the accuser were given far too much latitude, the British believed, in adjudicating legal cases. The fact that the family of, say, a murder victim could choose between different legal remedies—e.g., pardon, blood-money (*diya*), or retaliation (*qisas*)—gave far too much power to individuals. Thus the British wanted a far more centralized system for adjudicating criminal cases.⁴⁸ Paradoxically, at the same time they believed Islamic criminal law too "lenient," in a victim's family's ability to pardon a convicted criminal, they also deemed the (rare) use of amputations as "barbarous," preferring, instead, execution or incarceration.⁴⁹ Corporal punishments were thus abolished in 1834.⁵⁰ Finally, *fatwas* no longer acted as the nonbinding legal/ethical opinions of qualified jurists; rather, they began to act as legal "precedents" comparable to case law in the English common law tradition.⁵¹ Thus British barrister William Morley argued, just six months before the proclamation, that India's laws needed to be restructured around the English legal principle of *stare decisis*, in which legal cases function as precedents for future ones. "In no instance is the maxim '*stare decisis*' so imperative . . . as when applied to the laws administered in India," asserted Morley.⁵² Amidst this discarding of Islamic criminal law, the British recast Islamic *family*

law as religious (ergo normatively private) in nature, which it then termed Muslim Personal Law.

This is the background for the formation of the Indian Penal Code. The code was an expression of the liberal utilitarianism of its architect, Thomas Macaulay (1800–1859), and in many ways it was the zenith of the Anglicist reaction to the Orientalist deference to native religion that had marked the period from roughly 1770 to 1830.⁵³ The Anglicists, by and large, had wished to remake India in the image of Britain and Indians in the image of Englishmen. In 1833 Macaulay had proposed that Indians should be educated as Europeans, and the following year was appointed president of the Committee of Public Instruction, where the most vociferous debates between Orientalists and Anglicists took place. As Gauri Viswanathan has shown us, English literature became the primary means of “civilising” the Indian as well as a stealth means of promoting Christianity.⁵⁴ For Macaulay, English literature was inherently civilizing; in Catherine Hall’s pithy words, “Shakespeare would civilise Indians, but [Macaulay] had no wish to see them perform it.”⁵⁵ Thus the Anglicists, led by Charles Trevelyan (1807–1886), pushed for all education to be in English. Trevelyan’s hope was that the prevalence of English would open up India more fully to Christian missions.⁵⁶

The code reflected these preoccupations. But it also shared with Orientalists like Jones and Hamilton an interest in *codification*. Despite their disdain for the earlier generation’s interest in, and toleration of, Indian religion, the Anglicists adapted and accelerated the Orientalists’ impulse to codify and streamline, reaching its high point in Macaulay’s 1837 draft of the Indian Penal Code. Even though the code predates the proclamation, the code fit within what J. Barton Scott calls “Company secularism,” which had to balance evangelical opposition to certain Indian practices with the exigencies of trade, commerce, and public order.⁵⁷ As Scott and Neeti Nair have recently explored, the penal code was in many ways a new dispensation in its own right, regulating “offenses” against religion (in disparate and often contradictory ways).⁵⁸ Thus it forbade the “destruction, damage, or defilement” of any “place of worship,” with the intention of “insulting the religion of any class of persons,” as well as the “disturbance to any assembly lawfully engaged in the performances of religious worship.” The code also sought to protect the “religious feelings” of both individuals and entire communities. Anyone involved in “insulting the religion of any person,” stated the code, was liable to be fined and imprisoned for up to a year.⁵⁹

In some sense, 1857 conclusively ended the Anglicist phase of British rule in India. As Karuna Mantena has shown, the liberal universalist idea that Indians could be refashioned gave way to a new culturalist approach seeking to protect native “tradition” rather than change it.⁶⁰ Yet despite this shift after 1857, the Crown government allowed the code to move forward into its final stages of approval and promulgation under the direction of Barnes Peacock.⁶¹ Jettisoning native law took precedence over protecting native religion. Given that the colonial government had promised not to interfere in native religion, then, it may appear at first glance that the elimination of Islamic criminal law after 1858 was an instance of the colonial state acting in bad faith. I would argue, rather, that it was the outcome of reimagining religion in normatively private terms. Criminal law, in British legal thought, was intrinsically public in nature and could only subsist under the jurisdiction of the state.⁶² Islamic criminal law quite literally no longer counted as religion.

4. WHAT COUNTS AS INTERFERENCE? THE MISSIONARY RESPONSE

At the same time that the proclamation was actively remaking boundaries between religion and not-religion, Christian missionaries were negotiating the boundary between interference and noninterference in native religion. The continuity of missions points to a certain fictive quality in the proclamation’s privatization of religion, at least as far as missionaries were concerned. (For her part, Victoria wished, as she wrote in October 1895, that “the Mahometans could be left alone by Missionaries.”)⁶³ But the fact that missions continued after 1858 is curious. Or, stated differently, this simple fact points to a Christian exceptionalism at work: native religion was to be consigned to a private sphere, but Christianity could keep its public roles, if perhaps in a modified form. The barrister Philip Anstie Smith articulated the British government’s Protestant supremacy and the contradictions of what that supremacy entailed for Crown rule in India. “This, then, is the nature of the English Government,” wrote Smith. “It is the Government of a constitutional Sovereign, bound by the solemn compact between herself and the people of her own country to the support of ‘the laws of God, the true profession of the Gospel, and the Protestant reformed religion established by the law.’ It is the government of the supreme power in a nation whose political constitution the establishment of a form of Protestant Christianity is blended. . . . What, then, ought such a Government as this to do [in India]?” Smith argued that the government’s policy of

neutrality had backed it into a difficult corner, at once officially committed to its Christian identity but forbidden to promulgate Christianity, even through education. Thus it “should not undertake the task of education, and yet [must also] carefully exclude from its plan that which, according to the teaching of Christianity, is the most important part of education”—namely, religion.⁶⁴

Let us look in some depth at a variety of missionary responses to the proclamation. Joseph Mullens, foreign secretary of the London Missionary Society, was willing to countenance the queen’s general respect for native customs and traditions but held that the principle of neutrality should not apply to customs that were “cruel and unjust.”⁶⁵ And while he commended the queen for “her grateful enjoyment of the solace of religion,” he added that “one would have liked to see a clearer acknowledgment of the truth of Christianity as the only revelation from heaven.”⁶⁶ But Mullens was most concerned, like other evangelicals, with the principle of noninterference, interpreting it as a constraint on British officials in India to express their religious views. “It interferes,” he argued, “with their Christian liberty, their personal duty, appointed and enforced by a higher Master than any human government.”⁶⁷ In practice, Mullens argued, the “strict neutrality” of the government is contradicted again and again by its willingness to legislate against patently religious dimensions of Indian life and customs, listing “the abolition of suttee, of infanticide and slavery; in altering the laws of inheritance; in . . . permitting Hindu widows to remarry.”⁶⁸

A missionary in Cuttack named John Buckley (about whom also see the article by Siddharth Satpathy in this volume) leveled a similar critique of the proclamation’s statement on religious interference, adding that the policy ought only apply to official government servants. Buckley averred, perhaps aspirationally: “This, of course, does not apply to missionaries, but to the servants of Government.” And yet, “Already the infidel papers are exulting that we shall have no more preaching colonels, or proselytizing officers of Government.” Like others, Buckley circles back around to the core question: what constitutes noninterference? “Is it then pertinent to ask, What constitutes interference with the religious belief of the natives?” he asks. “If a military officer gives a tract or a portion of the Word of God, the reception of which is perfectly voluntary, to a Sepoy, or if a civilian do it to any under his authority, is that interference? If any of the Queen’s Indian servants contribute to Mission Schools and other objects connected with the furtherance of the Gospel—is that interference?”⁶⁹

Along the same lines, the Anglican missionary (and former prison chaplain) Joseph Kingsmill asked whether a policy of neutrality might entail the revival of *sati*, which the East India Company government had banned, after evangelical pressure, in 1829.⁷⁰ Similarly, the ban on the slave trade, he adds, is an affront to Islam, whose sacred texts, he says, authorize it.⁷¹ Even the British-built Ganges canal system, says Kingsmill, violates the principle of religious neutrality; some Hindus, regarding the Ganges as sacred, opposed the developments on religious grounds.⁷² For all these reasons, Kingsmill wrote, “We maintain that it is not possible for the Queen’s Government to maintain [neutrality] unless it restore Heathenism to its original *status quo*, repeal all the beneficent laws which the British rule (notwithstanding all its faults) has introduced into India, affecting the religion of the natives, and unless it also revive the ancient character of Englishmen in India, as worshippers of Mammon only.”⁷³

This dilemma was especially acute for officials of the Crown government. Kingsmill offers a solution to the impasse: a missionary must be free to proselytize in his or her “private” capacity. “In their *official* character they will doubtless abstain from all ‘interference’ with the religious beliefs of Hindustan,” writes Kingsmill, “and will be among the most strenuous denouncers of the impolicy and sin of any attempt to ‘impose’ their convictions on the people over whom they rule. But they will undoubtedly claim the right of every British citizen to foster and support, in his private capacity, the religion he conscientiously receives.” He concludes, “They will not be satisfied with *less* than the liberty which is the right of every Hindu amlah [temple staff], of every Mahomedan darogah [mosque official], to build a sanctuary for his god and to encourage the spread of his faith.”⁷⁴

Other Crown officials navigated the proclamation in a similar fashion. For Henry Carre Tucker, commissioner and agent of the governor-general stationed in Benares, neutrality toward Indian religions is impossible, for simply by teaching “Western” science, the British are undermining native religion, for according to Tucker, Western science undercuts core premises of these religions. Indeed, the British have already remade many aspects of Indian religions with respect to “the sacred laws of Caste, Inheritance, and Re-marriage of Widows.” Tucker does not find any problem with such meddling, to be sure; he simply wants to dispel with the fiction that the British have acted, and will act, neutrally. Tucker expresses his stance in the following:

I may premise, that *Religious Neutrality* is quite a different thing from *complete Toleration*. The latter is a wise, just, intelligible, and perfectly feasible policy.

The former, in India, is simply impossible. We cannot, even if we wished it, be absolutely “*neutral*” in dealing with the religions of India; for they are so intimately blended with false science, and false morality, that we cannot teach the simplest lessons of true science and true morality, without contradicting the false science and ethics of their religious books, and so far proving the religions themselves to be false. We have thus already infringed “neutrality” by the secular instruction in Geography, Astronomy, and Physics, which has sapped all faith in the native religions; and we have done so still more by a course of legislation which has interfered with the sacred laws of Caste, Inheritance, and Re-marriage of Widows, and has rendered punishable many rites and usages, such as Suttee,⁷⁵ the Sangor,⁷⁶ and Meria⁷⁷ sacrifices, and Dhurna,⁷⁸ which are not only sanctioned, but are even represented as meritorious by the native religion.⁷⁹

Is it noteworthy that Tucker was both a civil servant *and* an active missionary, evincing the limits of the noninterference principle in practice. Tucker was a member and trustee of the Church Missionary Society (CMS).⁸⁰ Founded in 1799, the CMS was the main missionary arm of the Church of England, especially in South Asia. The organization took advantage of the East India Company permitting missionaries in India for the first time in 1813.⁸¹ We have seen that others like Tucker attempted to defend their missionary work as an expression of their “private” faith, with no bearing on their “public” roles as civil servants.

5. CONCLUSION

This article has explored the language, intent, reception, and practical implications of Queen Victoria’s proclamation of November 1858. It has argued that the proclamation restructured the boundaries of what counted as religion in the very act of attempting to protect it. It analyzes the language of the proclamation in its official translation into Urdu to ascertain some of the ways it attempted to balance Mughal-era religio-political vocabulary with a newly privatized, and avowedly Protestant, conception of religion itself. It focused on two core contradictions of the dispensation that the proclamation authorized. First, despite its claim to protect and respect native religion, the proclamation consummated the cleavage of Islamic law into public and private realms, jettisoning what was deemed public because it necessarily competed with the sovereignty of the state, and consigning private matters to the newly crafted realm of “Muslim personal law.” Second, despite its claim to abide by a policy of neutrality and noninterference in native religion, Christian missionaries on the ground repeatedly called into question the terms, extent, and implications of the proclamation’s operative concepts. To this extent, this

article contributes to the growing literatures on colonial secularity and the aporias it engenders, historically and in the present.

NOTES

1. Bose and Jalal, *Modern South Asia*, 70–77.
2. Herbert, *War of No Pity*, 137, 2–3.
3. Herbert, *War of No Pity*, 101.
4. Herbert, *War of No Pity*, 35–37.
5. Taylor, *Empress*, 6. All subsequent references to this edition are noted parenthetically in the text.
6. Jalal, *Self and Sovereignty*, 37.
7. Viswanathan, *Masks of Conquest*.
8. Adcock, *The Limits of Tolerance*, 33 (italics in original).
9. Scott, *Slandering the Sacred*, 14–15.
10. Thomas, *Faking Liberties*, 26. See also Agrama, *Questioning Secularism*; Hurd, *Beyond Religious Freedom*; Sullivan, *The Impossibility of Religious Freedom*.
11. Agrama, *Questioning Secularism*, 107.
12. Martin, *Life of His Royal Highness*, 4:239.
13. Benson and Esher, *Letters of Queen Victoria*, 3:379.
14. Ledger-Lomas, *Queen Victoria*, 250.
15. Benson and Esher, *Letters of Queen Victoria*, 3:389.
16. Cohn, “Representing Authority,” 635.
17. Mukherjee, *India in the Shadows*, 78.
18. Mukherjee, *India in the Shadows*, 78–79.
19. Ball, *The History of the Indian Mutiny*, 2:520–22.
20. Buckley, “The Queen’s Proclamation,” 50–51.
21. Husain, *World of the Rebels*, 191–92 [English], 128–29 [Urdu]. On the ‘*amm* / *khas*’ distinction as public and private, see Pernau, “From a ‘Private’ Public,” 105–6.
22. Husain, *World of the Rebels*, 192 [English], 129 [Urdu].
23. Cohn, “Representing Authority,” 633.
24. Metcalf and Metcalf, *Concise History of Modern India*, 104–5.
25. Husain, *World of the Rebels*, 192–93 [English], 129 [Urdu].
26. Husain, *World of the Rebels*, 192 [English], 130 [Urdu].
27. On the centrality of *sulh* in Mughal political thought, see Kinra, “Revisiting the History.” On “good government,” see Bayly, *Recovering Liberties*.

28. Oddly, the phrase “solace of religion” was not given an equivalent in the Urdu.
29. Husain, *World of the Rebels*, 193–94 [English], 130 [Urdu].
30. Harrison, “*Religion*” and the Religions.
31. See especially Powell, *Muslims and Missionaries*.
32. The reformulation of religious identity around propositional truth-claims is, of course, one of the major outcomes of the Protestant Reformation, and especially the prevalence of creedal summaries in the form of catechisms. Harrison, “*Religion*” and the Religions, 20–26.
33. Jones, “Islam at Home,” 385–86.
34. Jones, “Islam at Home,” 386.
35. On this, see Watt and Mann, *Civilizing Missions*.
36. Ball, *History*, 524.
37. Majmudar, *The Musnud of Murshidabad*, 53.
38. On this movement, see Lelyfeld, *Aligarh’s First Generation*.
39. Khan, *The Causes of the Indian Revolt*, 49. In the Urdu, see Khan, *Asbab-i Baghavat-i Hind*, 50–51.
40. Macdonald, “Ilham.”
41. Taqui, *Lucknow 1857*, 20–22.
42. Ball, *History*, 543. I have been unable to locate the original Urdu version of this statement.
43. Peters, *Crime and Punishment*, 110.
44. Kugle, “Framed, Blamed, and Renamed,” 270.
45. Twining, *Letter to the Chairman*, 30 (emphasis in original). In Hinduism, “Shastah” (*shastra*—lit. “treatise” or “science”) signifies both a text and the genre or discipline of which the text is a part. In this instance, the term refers to *dharmashastra*, the Sanskrit tradition that provides rules for the ritual, ethical, and legal aspects of Hindu faith according to mainstream Brahmanism. I thank my colleague Mark McClish for clarifying this.
46. Quoted in Cannon, *The Life and Mind of Oriental Jones*, 286.
47. Al-Marghinani, *Hedaya*, xxxi.
48. Peters, *Crime and Punishment*, 104.
49. Fisch, *Cheap Lives and Dear Limbs*.
50. Morley, *Administration of Justice*, 74.
51. Kugle, “Framed, Blamed, and Renamed,” 271–74.
52. Morley, *Administration of Justice*, 331.
53. Wright, “Macaulay’s Indian Penal Code,” 19 n.3.
54. Viswanathan, *Masks of Conquest*.

55. Hall, *Macaulay and Son*, 230.
56. Hall, *Macaulay and Son*, 230.
57. Scott, *Slandering the Sacred*, 14.
58. Scott, *Slandering the Sacred*; and Nair, *Hurt Sentiments*.
59. Lyon, *The Law of India*, 1:56.
60. Mantena, *Alibis of Empire*.
61. Wright, "Macaulay's Indian Penal Code," 37.
62. According to John Baker's magisterial history of English legal thought, this principle developed quite early: "Anglo-Saxon kings took a keen interest in punishing thieves, both on behalf of the community and in claiming the penalties. This did not at first necessitate separate royal courts, but it was the beginning of the idea that serious crimes were affronts to the king and should be punished by the king rather than privately. During the twelfth century this vertical form of criminal justice displaced the horizontal, and revenge had to be pursued through an appeal of felony in the king's court." Baker, *Introduction*, 541.
63. Ledger-Lomas, *Queen Victoria*, 251.
64. Smith, *Remarks on the Character*, 9–10.
65. Mullens, *The Queen's Government*, 11.
66. Mullens, *The Queen's Government*, 12.
67. Mullens, *The Queen's Government*, 12.
68. Mullens, *The Queen's Government*, 9.
69. Buckley, "The Queen's Proclamation," 50.
70. Kingsmill, *British Rule*, 118–19. *Sati* refers to the ceremonial burning of wives on the funeral pyre of their deceased husbands. See Stratton Hawley, *Sati, The Blessing and the Curse*.
71. Kingsmill, *British Rule*, 130. This point is, of course, highly debatable and exceedingly complex. Like other sources from the late antique period, Muslim scriptural sources accept slavery as a natural fact of human life. On the other hand, these same sources encourage the kind treatment of slaves and their manumission. See Brown, *Slavery and Islam*.
72. Kingsmill, *British Rule*, 127–28.
73. Kingsmill, *British Rule*, 114–15.
74. Buckley, "The Queen's Proclamation," 47.
75. On *sati*, see n. 69 above.
76. *Sangor* may refer to a custom of child sacrifices at a place called Sangor on the Ganges: "It had been the custom from time immemorial to immolate at the island of Sangor, and at other places reputed

- holy on the banks of the Ganges, human victims by drowning or destruction by sharks.” A “regulation for preventing the sacrifice of children at Sangor and other places” was passed in August 1802. Pearce, *Memoirs and Correspondence*, 2:299–300.
77. Meriah describes the practice of human sacrifice among the indigenous Khond people of Odisha (formally Orissa). Campbell, *Human Sacrifices in India*.
78. This would appear to reference the practice of *dharna*. As Radhika Singha explains, “A person undertook a dharna when he ‘cast himself’ at the threshold of a person against whom he had a grievance to be redressed, or a debt or claim to be satisfied. He would refuse to get up or eat, and would obstruct the movement of the household till the offending party negotiated terms.” “In the Company’s records,” dharna was a sign of “a barbaric state of civilization.” Singha, *A Despotism of Law*, 88–89.
79. Tucker, *The Bible in India*, 3.
80. McPhee, “Henry Carre Tucker.”
81. Jeyakumar, “Church Missionary Society.”

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