Islamic Texts

The Anthropologist as Reader

Brinkley Messick

In the new millennium, especially in the aftermath of 11 September 2001, intensified and continuing scrutiny has been brought to bear on movements that invoke the shari'a in their calls for reform and for the establishment of Islamic states. Sensational cases and aberrant regimes, such as the Taliban of Afghanistan, also have reinforced simplistic Western perceptions and fears of the shari'a as backward, arbitrary and cruel. At present in the West, in the estimation of Muslim philosopher Ramadan (2004, 31), "the idea of *shari'a* calls up all the darkest images of Islam."

In its basic meaning, the shari'a refers to the divine design for the community of Muslims as set forth in the Qur'an and as exemplified in the words and actions of the Prophet Muhammad. But the term refers as well to a corpus of humanly authored legal thought elaborated at the meeting points of divine revelation and prophetic practice example with human reason. This large body of literature, technically known as the *fiqh*, was created and studied across Muslim societies over the course of many centuries. In books that served as the centrepiece of classical madrasa instruction, the shari'a includes not only the precise formats for the ritual life but also the detailed bases for a comprehensive moral and political economy, specifying the potential acts, rights and obligations of the individual Muslim subject. As a matter of faith, the sacred identity of the shari'a placed emphasis on its perfection and unity, but its human receptions, the necessary efforts by generations of Muslim jurists to understand and adapt the revelation and the Prophet's example, inevitably entailed differences of analysis and opinion, and these eventually were manifested in a number of distinct schools of interpretation.

Understood to be divine in origin and human in interpretation, the shari'a comprised a character both transcendent and immanent, a reality at once timeless and historical. Yet beyond these twin formal senses – as a revealed law and as a humanly created jurisprudence – its further range as a lived historical phenomenon may be indicated by colloquial usage. In a down-to-earth sense, dropping the definite article, shari'a refers to litigation, to conducting a lawsuit before a judge. "You and me, shari'a" is an age-old challenge to an adversary to take a matter to court.

In the West, the study of the shari'a, or Islamic law, was a key part of the old academic field of Oriental studies. The exemplary twentieth-century statement of that thought is found in the superbly synthetic study by Joseph Schacht, *An Introduction to Islamic Law*, which appeared in 1964. Schacht's seminal and definitive work challenged the next generation in what has become known as Islamic legal studies. While many criticised (or defended) his perspectives, Schacht's accomplishment remained the standard general work in the field, until 2009. In that year, Wael Hallaq published *Shari'a: Theory, Practice, Transformation*, a scholarly accomplishment that, in my view, represents the new standard in the field.

As is expressed in the last word of his subtitle, "Transformation," one of the large themes of Hallaq's new book concerns the "epistemic" break and the "structural death" of the shari'a as a "system" that occurred with the advent of modernity (Hallaq 2009, 15-16). In the third and final section of the book Hallaq details and analyses this historical break, by region and by country, under the various colonialisms and nationalisms. He characterises what exists today as but the "veneer of the shari'a," which refers to what remains in civil codes and in institutions of "traditional" education. I generally agree with this view of the present status of the shari'a, and a major thrust of my own book on Yemen (Messick 1993) was to analyse an historical instance of such an epistemic rupture. From this perspective of the break brought by modernity (as well as from the pressing need to address popular conceptions in the West) we must find new ways to analyse the old problems surrounding the shari'a in history.

It is perhaps too soon, and there certainly is not sufficient space here to offer a proper assessment of Hallaq's 600-page account, but I would like to note a couple of points Hallaq makes by way of introduction. At the outset of his book he mentions the practitioners of my humble discipline, anthropology. He assigns a prominent role in the recent study of the shari'a to "legal anthropologists" (Hallaq 2009, viii, 22), whose collective work, he states, "has helped reinvent Islamic legal studies." Together with the anthropologists on his honour roll, Hallaq also mentions the social and legal historians of the Ottoman period, which he accurately describes as "the best-covered area in the historical study of the Muslim world." I note this reference to scholarship on the Ottoman Empire since the case materials I will refer to are different (even though Yemen, too, was influenced by the Ottomans). While the history of the shari'a in the Ottoman Empire is exceedingly important, there is a danger that this particular history may be confused with the essential or timeless character of the shari'a.

I refer in what follows to the shariʿa system that existed in highland (North) Yemen around the middle of the twentieth century, in the decades leading up to the Revolution of 1962. The period in question came to an end well in advance of my own field research, which began in the fall of 1974 and has continued, intermittently, until the present. I concentrate on this recent historical period rather than, more conventionally for an anthropologist, on the years contemporary with my own research residence, for the special opportunity that the earlier time offers. This is to understand an historical instance of the shariʿa in a unique set of circumstances: (1) at a moment just prior to the local onset of a variety of characteristic modern changes, notably including nation-state codification and legislation; (2) since highland Yemen was not colonised by a Western power, and was also at some distance from the many, equally characteristic transformations connected with colonial-era relations, such as the sharp limitation of the sphere of shariʿa application to family law. Most significant, however, is (3) the opportunity presented by this slightly earlier era to study the shariʿa within the framework of a distinctive polity, a classically styled Islamic state.

Focused on the middle decades of the last century, this is a project in historical anthropology. Such an inquiry entails retrospection from ethnographic research conducted in the following decades, under the republic; the use of oral history; and, based on a wide corpus of books and documents, my emphasis today, several techniques for anthropological readings.

The Islamic state in question was headed by an *imam*, that is, a "great imam" – as opposed to the prayer leader in a mosque – a leader who was meant to be a qualified interpreter of the shariʿa. The formula of rule is much like that set forth in the law books. Schacht (1964, 76), however, stated, unequivocally, "the state as envisaged by the theory of Islamic law is a fiction which has never existed in reality." Against such view, the thousand-year history of the Islamic states of highland Yemen offers a lengthy counterexample.

Yet this Yemeni version of an Islamic state remains relatively unknown, not least among the younger generations in Yemen itself. Beyond its important place in the political history of south-west Arabia, the existence of such a state also may inform us, in wider terms, about the general nature and the range of possibilities of Islamic states. Modes of leadership aside, an Islamic state may be defined, in simple terms, as one that applies the shariʿa. To examine the specifics of its shariʿa regime is to go to the heart of such a state. My broader hope is that an understanding of this distinctive former shariʿa regime will help forestall narrower conclusions as to what was standard, or conceivable, with respect to Islamic law in history.

Within the complex world of this Islamic polity, my specific focus in the following pages is upon the varieties of shariʿa texts. If the systematic thought found in the doctrinal treatises of the shariʿa may be considered one of the greatest intellectual achievements of Islamic civilisation, the judgement records of the shariʿa courts and related archives of legal documents represent the most important group of sources for the last several centuries of its social history. Connections between accumulating doctrine and the ongoing tasks of judgement-giving and notarial drafting, between an academic tradition of the law and the rulings and other acts that pertain to concrete human endeavours, are at the crux of any functioning system of law.

My highland sources range from books of *fiqh* and their commentaries, the last of which was written in the 1930s and 1940s, to the personal opinions of the ruling and interpreting imams, the fatwas of local muftis, the judgements issued by shariʿa courts and the many types of local primary documents, including such instruments as contracts and wills. Beyond their unusual range, the further important features of this array of sources are that they are mutually contemporaneous in time and also that they pertain to the same place.

I use the terms "library" and "archive" to refer to two major clusters of shariʿa texts. Encompassing the local realms of the book and the document, writings that pertained, respectively, to the few and the many, these terms are intended to point at an analytic distinction within literate traditions. The library was associated with the *madrasa*, the site of academic learning, while the mid-century archive had primary links to the *maḥkama*, the judge's court, and its surround, including the private notarial writer. While the writings of the library and the archive entailed separate discursive dynamics, they nevertheless had interrelated histories. Placing a period library and a local archive together at the centre of the inquiry is integral to my examination of the shariʿa as a "written law." Extending this old notion beyond its normal referent of the law on the books, the legal literature or jurisprudence proper, here centred on the *fiqh*, I also take into account legal writing at the less exalted, but hard-working levels of both court litigation records and ordinary instruments. This more holistic approach to what Raymond Williams (1977, 145-148) termed the "multiplicity" of writing is designed to bring the complex interactions among doctrine, opinions, judgements, and instruments into view.

In my usage, "library" and "archive" summarise contrasting discursive structures within an overarching juridical culture. Shariʿa traditions operated on the basis of a textual divide between doctrinal genres that

were relatively context-free, a-temporal, and strictly technical-formal in expression versus a spectrum of richly circumstantial applied genres that were context-engaged, historically specific, and linguistically stratified. As opposed to the consistently general phrasing of doctrinal discourse, the practical acts of the courts and the notarial writers were resolutely specific. A defining feature of library texts is their reference to legal actors and objects using the noun *fulan* and its variations and extensions – the standard "so and so" or "John Doe," and the "such and such" of formal Arabic. In shariʿa regimes, this generalising library discourse of *fulan* is the discourse of theory and law.

Archival texts, in contrast, equally characteristically contained proper names. Where the doctrinal literature assumed a non-referential guise, consistently avoiding particular coordinates in time and space, court rulings and notarial instruments were carefully dated and located. Where doctrinal works engaged formal logical thinking, archival texts, while comprising some of the results of this thought, additionally embodied varieties of informal logic. And where literary jurists commonly distinguished between formal Arabic (the *lugha*, or "language") and their own specialised linguistic usages, in court transcripts, these two registers of tutored discourse were joined by some colloquial expression excerpted from primary texts both oral and written. Adopting all manner of regional and locale-specific vocabularies and terminologies, archival texts brimmed over not only with the names of people and the specification of things but also with precise indications of amounts and quantities, using named currencies and the variety of existing measures. In shariʿa regimes, this particularising archival discourse of the name is the discourse of practice and custom.

My general premise is that a complex legal regime may be instructively approached through an analysis of its written acts. That to inquire into what kind of writings these are is also to ask what kind of law that was. This is to treat written texts, literary or documentary, library or archive, not simply as the means for an inquiry – that is, as conventional sources – but also as ends. The historical nature of my inquiry also necessitates a distinction between acts and artefacts, between the fleeting historical events of writing and their extant material objects. I study the latter, the textual artefacts, for traces of the former, the earlier acts of writing. Genre refers not only to types of texts but, equally, to institutions of human action. My aim is to understand an historical instance of the shariʿa in terms of its systematic dimensions. How, in short, did the shariʿa work?

Unlike most existing research on Islamic law, which has focused either on library works or on archival documents, I emphasise their coexistence. As I

detail the multiple genre make-ups and the distinct discursive histories of the period library and the local archive, my further interest is in how these fundamental categories of shari'a texts were interlocutors.

This inquiry addresses one of the venerable problems of Islamic legal studies: that of the relation between theory and practice in the shari'a. Schacht (1964) sets this problem for us in clear, but largely negative terms. As noted, the subtitle of Hallaq's new book begins, "Theory, Practice …" In suggesting how an analysis of the relations between shari'a texts contributes to the understanding of the larger dynamic of theory and practice in Islamic law, however, I draw more specifically on a couple of Hallaq's earlier papers in which he outlined examples of what he refers to as textual "stripping" (Hallaq 1994, 1995). Also in these articles his interest was in the dialectic of theory and practice.

How might an approach to texts, to genres, written acts and artefacts, the library and the archive, contribute to the study of theory and practice in the shari'a? This will depend on methods for utilising these sources, in this instance on the work of the anthropologist as reader.

1 Genealogy

A century ago in anthropology, at its modern birth, the discipline was disinclined to regard written texts as proper sources. Franz Boas defined the field as the study of societies "without written languages" and "without historical records" (Boas 1903, quoted in Stocking 1988, 18). Before I outline some of my own approaches, I will digress to sketch some elements of a genealogy of the anthropologist as reader.

Boas advocated the sort of primary inquiry in original languages that he compared to the Oriental studies research of his day. "A student of Mohammedan life in Arabia or Turkey," he wrote, "would hardly be considered a serious investigator if all his knowledge had to be derived from second-hand accounts" (Boas 1969 [1911], 60). His own work was founded upon an elaborate textual method, which resulted in grammars and collections of oral texts, notably including myths. For a given myth, the published research could involve as many as three distinct versions: a phonetic transcription of the native language text, an interlinear (word-for-word) translation, and a free (narrative) translation. As later observers have remarked, this was philology in all but the name.

According to Michel Foucault (1970, xii, 280-307), modern philology emerged out of an earlier tradition of general grammar. For Foucault,

philology ultimately involved "the analysis of what is said in the depths of discourse," and its hallmark was "to turn words around in order to perceive all that is being said through them and despite them." He saw the advent of this new philology as heralding nothing less than the birth of "modern criticism." The new philology also was at the methodological heart of modern Orientalism in Edward Said's account. Said (1978, 22, 130-149) adopted Foucault's periodisation and his analysis of philology, and he wrote (elsewhere) that "philology's 'material' need not only be literature but can also be social, legal or philosophical writing" (Said 1969, 2).

Chapter 3 in Said's posthumous *Humanism and Democratic Criticism* is titled "The Return to Philology." His aim is to "suggest how philology, an undeservedly forgotten and musty-sounding but intellectually compelling discipline, needs somehow to be restored, reinvigorated, and made relevant to the humanistic enterprise." This "compelling" philology is defined as a mode of hermeneutic reading anchored in a "detailed, patient scrutiny of and a lifelong attentiveness to the words and rhetorics by which language is used by human beings who exist in history" (Said 2004, 6, 61).

For the Boasian anthropologist, a solid corpus of native texts enabled both narrower linguistic and broader ethnological analysis. Ethnology, the general science that subsumed both language and culture, was defined by Boas as "dealing with the mental phenomena of the life of the peoples of the world," or, as he also put it, their "psychology." In the light of this conception, the data Boas valued most derived its authority from its largely unreflective or fully unconscious character. Linguistic data were especially important because the categories of language "never rise into consciousness." As for other ethnological phenomena, "although the same unconscious origin prevails, these often rise into consciousness, and thus give rise to secondary reasoning and to re-interpretation" (Boas 1969 [1911], 63, 67-73). Boas generally turned away from what he perceived as the dangers of such "secondary explanations," although he acknowledged that this sort of information filled field workers' notebooks. Boas understood what he termed "esoteric doctrines" as a further type of "secondary phenomenon." Such doctrines were the "product of individual thought" and of the "exceptional mind." But ethnology, he asserted, "does not deal with the exceptional man; it deals with the masses" (Boas 1940 [1902], 312-315). In this theme, which also entailed a disregard for what later would be termed "native models," Boas connected anthropology, not to the humanities, but to the other side of its split disciplinary identity: the social sciences. It should come as no surprise that such social scientists would have a problem with the figure of the author.

Few in the next generation of anthropologists could make productive use of the large corpus of published but otherwise raw texts left by Boas. An important exception was Claude Lévi-Strauss (d. 2009), the consummate student of New World mythology. His four-volume *Mythologiques* references over 800 myths from both North and South America collected by many previous ethnographers, Boas and Boasians prominent among them. For a subset of these myths Lévi-Strauss goes into fine detail, but since he mastered none of the original Amerindian languages he disclaimed the possibility of a conventional philological approach. "I am not a philologist," Lévi-Strauss states, and yet he created an innovative comparative science of texts, studied mainly in translation. His elegant and elaborate structural analyses of myths purport to reveal the "inner workings" of the societies in question (Lévi-Strauss 1981, 639, 643-645). They also display dense patterns of a type of intertextuality that was, by his fourth volume, intercontinental in scope.

Another lineage of anthropologists sought to understand the "native's point of view." Bronisław Malinowski (1884-1942) is credited with instituting extended ethnographic fieldwork as the basic research technique, and he, too, utilised a highly refined textual method. For Malinowski, old-school philology was the explicit foil. "The typical philologist," he wrote, "with his firm belief that a language becomes really beautiful and instructive … when it is dead, has vitiated linguistic studies." "The needs of the Anthropologist," he continues, "are entirely different, and so must be his methods." In the "pre-literate" societies studied by anthropologists, language "does not live on paper," but instead "exists only as free utterance" located in "its context of situation." Seeking to avoid the "sterility of the philological approach," Malinowski also rejected the closely-linked interest in historical reconstruction (Malinowski 1965 [1935], xix-xx). He contrasted his method with an earlier mode of anthropological "text-taking" that involved dictated set pieces, via an interpreter, and thus entirely (excepting technical terms) in translation. His key improvement, thereafter a hallmark of the field, was to learn the language himself and eliminate the interpreter. He referred to his collected texts, in italicised Latin, as a "*corpus inscriptionum*." He also compared his work to that of Egyptologists, who studied "a similar body of written sources" (Malinowski 1961 [1922], 23-24).

For Malinowski, the anthropologist's "documents of native mentality" included "statements, characteristic narratives, typical utterances, items of folklore and magical formula." Like Boas, Malinowski published extensive transcriptions together with interlineal and narrative translations, but he also created a formal place in his method for native commentaries.

Continuing his allusion to classical humanism, he referred to these commentaries as "*scholia*"; a generation later, Victor Turner would speak of "native exegesis." Much as in the actual practice of Boas' research, a named individual "of exceptional intelligence" provided Malinowski with fundamental linguistic assistance, "helping to obtain a definition of a word, assisting to break it up into its formative parts, [and] explaining which words belong to ordinary speech, which are dialectic, which are archaic, and which are purely magical compounds." Referring to one of his texts, a magical spell, Malinowski explained that it "cannot be considered the creation of one man." A social text with a reception history, the spell bore the "unmistakable signs of being a collection of linguistic additions from different epochs … constantly being remoulded as it passes through the chain of magicians, each probably leaving his mark, however small, upon it" (Malinowski 1961 [1922], 428, 429, 433).

Introduced into a field of research then confined to small-scale, non-literate societies, such sophisticated textual understandings marked the discipline's modern origins. In this displaced philology of the spoken word we may locate part of a genealogy for the anthropological reader of written texts. But it is a history which must be actively reclaimed.

Such continental sensibilities regarding anthropological texts and the centrality of language preparation eventually were challenged. Anthropological linguistics branched off to develop as a specialised sub-field, while, for the mainstream, Margaret Mead, Boas' famous student, exemplified the break with the older philological methods in the face of an advancing science. As opposed to the previous generation's pattern of sustained work on a single region, Mead's new "problem-oriented" research went society hopping. Mead rejected what she referred to as linguistic "virtuosity" on the part of the anthropologist, that is, any more language capacity than the minimum necessary for the research task at hand (Mead 1939). An expanded emphasis on observation, on the trained omniscience of the fieldworker, was to be coupled with techniques of efficient questioning.

By the mid-twentieth century, anthropological research moved on to the peasant margins of literate societies. It was the era of the Great and Little Traditions, with anthropologists specialising in the latter, the rural and non-literate part of a complex civilisation. By the end of the century, that is, in our own day, especially with the "historical turn," we have seen the normalisation of archival inquiry, initially in Western-language colonial sources. There also were indications of disciplinary fetters concerning written sources being thrown off. Akhil Gupta (1995, 385), for example, asked, "by what alchemy time turns the 'secondary' data of the anthropologist

into the 'primary' data of the historian." Anthropologists, meanwhile, had been consumed with "reflexive" analyses of their own writings, but these new interests in authorship did not extend to their source texts. Jonathan Boyarin's landmark edited volume, *The Ethnography of Reading* (1993), however, initiated new interdisciplinary research on a range of literate textual cultures while also commencing the critique of the long-standing anthropological resistance to the study of written texts.

Because most anthropologists did not pause to rethink their disciplinary positions regarding non-Western writings, reading methods emerged without a great deal of thought about the new activity. This was due, in significant part, I think, to the large achievements of two intervening figures, Clifford Geertz and Jack Goody. While Geertz (1973) initiated a decisive "textual turn" in the discipline, Goody's work would serve as the default reference for the comparative study of writing and literacy (Goody 1968, 1986). Representing important, late-twentieth-century trends in the American and British schools, their analytic vocabularies were roughly opposites: Geertz's humanist (reading, construction, hermeneutics, understanding) versus Goody's social scientific (hypothesis, data, evidence, explanation).

Geertz introduced an influential interpretive anthropology of the "text," but with the significant irony that this did not refer to written texts. While not specifically ruled out, the examination of texts in the literal sense of indigenous writings was not the anticipated activity. According to Geertz's well-known formulation, the "said" (1973, 19, 20) of social discourse was to be "inscribed" by the ethnographer. For James Clifford (1988, 38), who has understood Boas' work in related terms, interpretive anthropology was "based on a philological model of textual reading." Geertzian anthropologists did not initiate readings in written sources, but instead read second-hand in Orientalist or area studies scholarship. Interpretive anthropology focused on the broadly "public" and "shared" levels of culture rather than on more narrowly reflective or specialised forms of analytic thought. Instead of the "esoteric" flights of refined imagination or instances of sophisticated conceptualisation that might be found in artistic or scholarly writings, Geertz held that the proper object of cultural analysis was "the informal logic of actual life." His field research, conducted in the traditionally literate and predominantly Muslim societies of Indonesia and Morocco, brilliantly adapted the interpretive sociology of Max Weber, including his culture concept and his modes of historical and comparative analysis, to a variety of ethnographic projects. Unlike Weber's own treatments of Lutheran and Calvinist doctrine, however, the

Geertzian anthropologist was neither trained nor inclined to be a reader of a culture's written works.

Goody, in 1968, introduced a comparative anthropology of the "consequences" of literacy. He, too, is a longstanding student of Muslim societies, initially in Sub-Saharan Africa and most recently in Europe. The irony in Goody's case was that he remained profoundly distrustful of writings as sources. This indefatigable student of "writing" as a social fact resisted the notion of utilising documents and other written sources as anthropological data. In his view, only observational fieldwork, the disciplinary standby, could lead to a scientific understanding of practice. Should an anthropologist be "forced to rely on documentary evidence alone," there were clear dangers. Written evidence, he explained, was "often composed with specific purposes in mind," and, as a result, writings "play a very variable role with regard to custom and practice, including largely ignoring them" (Goody 1990, 482). A salutary caution, no doubt, but might such an understanding be converted from an obstacle into an opening for inquiry?

In his well-known piece on "The Idea of an Anthropology of Islam," Talal Asad (1986) set forth the key concept of a "discursive tradition," which provided a general mandate for anthropological approaches to written sources. An excellent specific instance of the anthropologist as reader is found in Asad's own subsequent work on the shari'a in colonial Egypt. His treatment of a text by Muhammad Abduh is exemplary. In order to pinpoint the advent of new usages and the contours of a new discursive space that were emerging at the turn of the twentieth century, he selectively translates, and also transliterates, key passages from Abduh's text (Asad 2003, ch. 7).

Before I turn, finally, to my own methods and a sketch of the textual culture of highland Yemen, I want to make some brief observations regarding this (incomplete) genealogical sketch of the anthropologist as reader. First, will overcoming this deeply engrained disciplinary disinclination to the use of written sources result in a distinctive quality or a disciplinary difference in anthropological readings? In this connection, will criticism of the old epistemology of the "eye," the visualism of social scientific observation, as advanced by anthropologists such as Johannes Fabian (1993), be complemented now by a new criticism attuned to the "eye" of the anthropological reader? My second observation concerns the old anthropological philology of the spoken word, as practiced by Boas, Malinowski, and many others. Is it possible to draw on this disciplinary legacy of textual sophistication in constructing new methods for the anthropologist as reader of indigenous written texts? A third observation concerns a gap I would like to span: the distinction between the informal or implicit in culture versus the formal

or explicit, specifically in connection with textuality. From Boas forward, anthropologists have placed an emphasis on inquiring about everyday, commonsensical, or colloquial assumptions as opposed to "esoteric" indigenous knowledge, what they often rejected as "secondary explanation" and "native models." In my prior work on the formal, text-based knowledge of the shari'a, I have, at the same time, maintained an interest in the "informal logic" of the textual tradition, in the "habitus" of the written text (Messick 1993).

2 Methods

I want to briefly explicate my own reading methods. In doing so I tease apart and discuss separately a series of techniques that often must collapse together in actual readings.

2.1 Ethnographic Methods: Reading *with*

Basic among these reading methods is the fundamentally ethnographic activity of reading *with*. To work on the mainly archival documents I obtained from local family holdings, I sought out local readers. As with Boas' or Malinowski's assistants, my fellow readers helped me to explicate terms and parse phrases. But I also learned broader techniques of informal textual analysis, and how to do things with texts. Thus I learned how a complex dispute or a compound undertaking could be broken down into a series of written acts, or how a single text could be dismantled into its constituent stipulations and its component clauses. This was to tap, ethnographically, into informal modes of contractual or transactional thought. I learned that a dispute could generate a formidable paper trail as it progressed, and also that many of these texts were blinkered with respect to others in the same cluster or series. That is, each of the constituent texts in a complex undertaking would offer a partial rather than a full sense of the encompassing event. I also observed that certain types of documents did not mention all of the existing terms in an undertaking. In general, however, rather than judging texts for what they did or did not do with respect to a presumed and governing "reality," that is, in terms of their successes and failures as representations of prior acts, I began to approach writings as separate acts, as forms of reality in their own right.

Closely related to these readings was my ethnographic work on local scenes of writing, which I studied for the retrospective purposes of historical anthropology. These scenes focus on particular transitions from

spoken words and quotidian realities to written documents and shariʿa discourse. They prompted preliminary understandings of the *in situ* status of legal documents and about archives at their points of creation. Such micro-studies of writing and reading have helped me clarify some of the possibilities and the limitations of an archival anthropology.

2.2 Analytic Methods: Reading *for*

My more solitary reading methods also draw on what I learned in the activity of reading *with*. These further methods may be described as ways of reading *for*. These are of two major types: readings for implicit textual logics and readings for explicit textual theory.

2.2.1 Implicit Logics

In this category of reading I reverse the conventional order of the source. That is, I read not for what the source says about the world, but for the evidence of its own constitution as an act of writing. These are present readings of existing textual artefacts in order to understand historical acts of writing.

In particular, I read for the material features of a given text and for its citational structures. My approach to textual "materialities" takes a cue from Foucault on the "archive" and also from the specialised field of "bibliography;" that to citation draws on conceptions developed by Bakhtin (1986) and by linguistic anthropologists on "reported speech," which I extend to reported texts of all kinds, including written. In general, I read for the many minor elements of form, or genre. Reading for "materialities," I pay attention, for example, to the spatial organisation of a page, whether in a document or a manuscript, and to any later additions of notes (on a contract instrument) or marginalia (in a book), as these provide indications as to the temporalities of the text. Included among what I term the "elementary" features of such writings are the statuses of original and copy, security devices of various types, archival locations such as a register versus a home cache, etc.

Citational structures are fundamental to text-building, comprising many of the minor and informal methods of composition. The most dramatic example is found in shariʿa court judgements where the final record is constructed out of excerpted and integrated passages from other texts, both spoken and written. Thus I read for the recording of witness testimony and the entering of notarial documents as evidence. In addition to this archival example, I also read library texts such as law books for their forms of wholesale quotation, such as in the commentary genre. Although Muslim

linguists theorised certain forms of quotation, like the familiarity with material features of texts in a given setting, most of the small techniques of composition were acquired informally. These techniques were among the features of a textual *habitus* gained directly through practice, through the experience of handling local writings.

2.2.2 Explicit Theories

I also read *for* textual ideologies and meta-textual thought. Thus I am interested in model texts of various types. The shari'a library as a whole had the status of a model with respect to a given shari'a archive, just as specific doctrinal chapters provided detailed language, rules, and stipulations for particular notarial acts. Modelling also is dialogical. Thus archival documents may be read both in terms of the implementation (or not) of various models and also in terms of their potential (or not) to impact the works of the library. In this relational sense, modelling pertains to how theory enters into practice and also to how practice enters into theory. Both of these reciprocal movements are vitally important to any living legal system, and neither has been properly understood with reference to a functioning instance of Islamic law.

In the earlier mentioned articles from the mid-1990s, Hallaq made an important contribution to the dialectics of modelling. In one study, he read a corpus of treatises in the specialised genre of "stipulations" (*shurūṭ*), which provided model documents for notarial writers to follow. While Hallaq worked on the relationship that obtained over centuries, however, I looked at one over a period of decades. Also, while Hallaq had numerous examples of these stipulations treatises, I had but one. The key differences of my historical anthropological project are that I also had an extensive corpus of actual historical documents to compare to the models of the "stipulations" treatise, and that the treatise itself was from the same locale as the documents. In the introductory sections in the treatise I also found more formalised, explicit versions of what I had initially understood ethnographically, in reading *with*. Thus I found conceptual passages on breaking a transaction down into a series of related texts and that involved thinking in terms of the clause-structure of a given text, which in the instrument models takes the form of branching possibilities.

Hallaq's important contributions regarding "stripping" involves movements between genres, such as from the fatwas of muftis to the pages of the doctrinal literature in another example he studied, and from an instrument to a document model in this case. An analysis in terms of textual "stripping" concerns not only how historical documents could provide the raw

materials for the creation of a model text, but also how, in the process, a version of factual material from the world could find its way into the technical discourse of the law. Viewed the other way around – since the process was dialectical – the same channels also enabled the descent of rules, model to document, into every day life situations. Such approaches to the shifts that occurred in textual genres thus directly address the larger question of the relation between theory and practice.

Beyond the models that figure in their jurisprudential writings, Yemeni jurists also thought about writing itself. In such analyses, they considered form apart from any particular content. That is, they isolated writing as an object of inquiry in a manner related to my own analytic project. The examples I now turn to represent further instances of library-on-archive thinking, and they mainly concern the evidential status of written texts.

How did this "native" theory conceive of and configure the activity and the space of archival writing? One example doctrinal discussion creates a conceptual relationship between the archive and memory. Thus an authoritative Zaydi law book, a late-fourteenth-century text (in *italics*) as commented upon in the early twentieth century, states: "*and* it is *not* permitted that a witness testify nor that a judge rule purely *on the basis of what he found in his archive*, among papers written in his handwriting and under his seal or signature, [whether in] a document or other than it, *if he does not remember*" (al-'Ansi 1993 [1938], 4: 111). This passage pertaining to the evidential status of ordinary legal documents links writing and memory, asserting the primary authority of the latter.

Another doctrinal discussion concerns the place of writing in the court forum. According to this conception, documentary evidence does not stand alone. Witnesses present at an original event, such as a contract session, had to appear in court to testify as to the associated document's contents. An important further feature of this method set forth in the doctrine was that these witnesses had to "complete" their testimony with an "oral reading" (*qira'a*) of the document in question. The term *qira'a*, which also may be translated as "oral recitation," links this courtroom plan to Qur'an recitation and to one of the basic methods of the madrasa lesson circle. The relevant fragment from the Zaydi law book again mixes the fourteenth-century text (again, in *italics*) with the language of the twentieth-century commentary.

> It is required that the witnesses complete their testimony about the document of *a will, or* [about] *the document of a judge to his counterpart, and like these*, such as transaction papers, *by an oral reading*, by the maker of that [document] *to them* [the witnesses]. (Al-'Ansi 1993 [1938], 4: 104-105)

This "oral reading" of the text was to be carried out in court by the notarial writer of a legal instrument. It was to be directed "to" the witnesses to the contract or disposition. In their testimony the witnesses must be able to say, "he [the notarial writer] read it aloud to us and we listened," or, the other way around, "we read it aloud and he listened to our reading." This doctrinal conception may be matched with case records from local shariʿa court jurisdictions in Yemen which contain examples of a version of this technique used in actual litigation.

Elsewhere, the doctrinal jurists reflected on writing itself, and in so doing distinguished between different types. The issue at hand concerned a husband putting his repudiation statement into written form. The jurists identify two kinds of writing, but only one of these can constitute the legal archive. Although both types of writings are understood to involve a "trace," only one of these remains manifest and legible. For it to be legally authoritative, the doctrinal passage states:

> it is necessary that the writing leave a trace which may be seen externally, and this does not occur unless it is *inscribed* writing, as in writings on paper, or boards, or stone, etc., on which the letters of the writing remain inscribed. [This could even include] writing with earth or flour, or upon them.

Equally recognised in their analysis as a type "writing," but not meeting the criterion of leaving a legible inscription, is that which occurs,

> in the air, or on water, or stone, on a surface not manifesting the trace of the writing and which is impossible to read, either immediately or [because] the first part of a letter disappears before the second part is begun. (Al-ʿAnsi 1993 [1938], 2: 122)

Derrida (1996, 100) speaks in similar terms (but to different ends) of "separating the impression from the imprint." The jurists' simple classification scheme and its quick survey of materialities yields one act of writing in which an "impression" results in an artefact and another in which it does not. This last, also an act of writing, but taking the form of a trace without an "imprint," shares a fleeting quality with an act of speech. The possibility of a subsequent reading is thus the condition for a written act to register as a part of shariʿa practice.

A final example of my reading for explicit textual ideologies concerns an analysis of "basing action on writing," which returns to the issues connected with written evidence in court. This analysis departs from an opinion issued

by one of the twentieth-century imams of Yemen. Again, written form is separated from any particular content. Routine writings were deemed absolutely necessary by the jurists, but also potentially dangerous. The resultant dilemma animated a set of stock problems (*masā'il*) that reverberated through the history of the shari'a library. The twentieth-century imam held that "the basing of action on writing is acceptable, if the writing is known and the writer is known for justness" (see Messick 1993, 211-215). The related analysis is a further instance of complex local juridical thought about archival practice. This, again, is the sort of material that must be the object of inquiry – and of related techniques of reading – in a historical anthropology of the Islamic shari'a.

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