# The Travels of Law: Indian Ocean Itineraries

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> I believe that no country ever stood so much in need of a code of laws as India; and I believe also that there never was a country in which the want might so easily be supplied. I said that there were many points of analogy between the state of that country after the fall of the Mogul power, and the state of Europe after the fall of the Roman empire. In one respect the analogy is very striking. *As there were in Europe then, so there are in India now, several systems of law widely differing from each other, but coexisting and coequal*. The indigenous population has its own laws. Each of the successive races of conquerors has brought with it its own peculiar jurisprudence: the Mussulman his Koran and the innumerable commentators on the Koran; the Englishman his Statute Book and his Term Reports. As there were established in Italy, at one and the same time, the Roman Law, the Lombard law, the Ripuarian law, the Bavarian law, and the Salic law, so we have now in our Eastern empire Hindoo law, Mahometan law, Parsee law, English law, perpetually mingling with each other and

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> disturbing each other, varying with the person, varying with the place.
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> –Thomas Babington Macaulay[1]

On July 10 1833, in his lengthy and famous speech on the "Government of India" delivered to the House of Commons, Thomas Babington Macaulay offered a brief but fascinating spatial-temporal assessment of the exigencies confronting British legal reform in India. As his above-cited remarks suggest, Macaulay was well acquainted with the subcontinent's rich landscape of multiple legalities and was particularly attuned to the challenges this legal plurality posed to British rule. At the same time, his observations serve as an astute testament to law's travels. Macaulay's speech addressed a range of politically charged issues, including allegations of scandal and corruption surrounding the East India Company's administration. By the end, however, he turned from justifying and defending Company pursuits to persuading an attentive Parliament about the necessity and merits of legal codification. Given Macaulay's unwavering belief in the superiority of Britain (and Europe)—most clearly articulated in his developmentalist analogy between "Europe then" and "India now"—the most plausible itinerary of law's movements was a unidirectional one: law originated in metropolitan London and moved outward to India and elsewhere. However, in advancing his case for codification, Macaulay inadvertently exposed many other laws and their respective circuits of travel. India was difficult to govern precisely because it was a terrain of legal mobility; the residues of other people, places, and times produced a polyglot existence of "Hindoo law, Mahometan law, Parsee law, English law, perpetually mingling with each other and disturbing each other."[2] What India needed most, Macaulay urged, was a systematized, standardized, and codified rule of law that was to be introduced and imposed by the British: "A code is almost the only blessing, perhaps it is the only blessing, which absolute governments are better fitted to confer on a nation than popular governments."[3]

Macaulay's speech has most frequently been cited in discussions and debates on legal codification.[4] However, his insights offer an invaluable

1. Thomas Babington Macaulay, "A speech delivered in the House of Commons on the 10th of July 1833," in *The Miscellaneous Speeches and Writings of Lord Macaulay* (London: Longmans, Green, and Co., 1889), 569, emphasis added.

2. Ibid. The developmentalist ideas put forth by Macaulay were developed by his successor, Henry Sumner Maine. These ideas were most fully articulated in *Ancient Law: Its Connections with the Early History of Society, and it's Relation to Modern Ideas* (London: Henry Holt and Company, 1834) and subsequently in *Village Communities in East and West* (New York: Henry Holt and Company, 1876).

3. Macaulay, "A speech delivered," 570.

4. Elizabeth Kolsky, "Codification and the Rule of Colonial Difference: Criminal Procedure in British India," *Law and History Review* 2005, 23: 631–83. See also Julia

reminder of law's itinerancy. Law, in all its plurality—as British common law, code, and "personal law"—has been highly mobile, traveling with frequency across great distances, albeit in different directions and with varying intensities, bridging continental divides, creating communities, and connecting "civilizations." The mobility of law is by no means a conventional view of legality, however. Law and legal institutions have largely been conceived as territorially and geographically bound, as coterminous with the political sovereignty of empires and states. We seldom think of law as a dynamic force that moves with changing momentum and potency across territories, jurisdictions, or historical eras.[5] However, as Macaulay's observations suggest, law—be it Islamic, Hindu, or English—was peripatetic, traversing time and space, though not equally or symmetrically. In Macaulay's account, "successive races of conquerors" brought to India their "peculiar jurisprudence" that continued to linger, despite subsequent waves of conquest. The arrival of new laws was always met with the residues of what came before. Therefore, India was not a blank slate on which the common law or legislative enactments could be imposed. Rather, it was always already the site of multiple and overlapping legalities, layered sedimentations that needed to be acknowledged and taken seriously if Britain was to rule India effectively.[6] The outcome of law's travels, Macaulay lamented, was not a smooth and seamless landscape but a chaotic, uneven, and disorderly one. Where Macaulay saw unwieldiness, uncertainty, and inefficiency, other actors working within the domain of law—including local elites, lawyers, traders, and imperial subjects—found ambiguity, opportunity, and creativity. It is precisely this unruly terrain, produced through the travels of law, that this Forum on "Indian Ocean Circuits of Law" seeks to examine.

What counted as law and how exactly did it travel? European and non-European law traveled in claims to dominium and imperium as Macaulay suggested to the House of Commons. It also traveled along quotidian routes and itineraries, across shipping and telegraph lines, and in the embodied movements of major *and* minor historical figures alike.

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Stephens, "An Uncertain Inheritance: Litigating Religion and Sovereignty Across Empires," *Law and History Review*, this volume.

5. This view is beginning to change as scholars emphasize imperial law as "a set of fluid institutional and cultural practices." See Lauren Benton and Richard J. Ross, "Empires and Legal Pluralism: Jurisdiction, Sovereignty, and Political Imagination in the Early Modern World," in *Legal Pluralism and Empires, 1500–1850,* ed. Lauren Benton and Richard J. Ross (New York: New York University Press, 2013), 2.

6. Jane Burbank and Frederick Cooper argue that pluralistic legal structures were not exceptional, but rather were the norm in imperial and colonial contexts. See "Rules of Law, Politics of Empire," in Benton and Ross, *Legal Pluralism and Empires*, 281.

"Legal cultures traveled with imperial officials," Lauren Benton reminds us, and with "merchants, sailors, soldiers, sojourners, settlers, captives, and even pirates—agents in empire who positioned themselves as subjects and often as representatives of competing empires." The movement of peoples, Benton continues, expanded law's reach, forging new political communities, creating hybrid and layered legal cultures, and opening additional opportunities for resistance and refusal.[7] Law traveled through different forms and formulations, as documents and decrees, as strategic visions of imperial authorities, and as pragmatic tools for trade communities. Law moved through institutional mobility and change and in the critical imaginaries of colonial subjects. Law's movements traversed and connected distant territories and histories, producing competing and complementary geographical and temporal understandings of empire, place, and belonging.

Complicating and even disrupting prevailing conceptions of sovereignty, these movements across uneven terrains also profoundly shaped what counted as law as well as its claims to authority.[8] British common law was at once situated and itinerant, immanent to specific histories and contexts, while always seeking to transcend them. Similarly, what the British regarded as "personal law," including Hindu and Islamic law, was also highly mobile. It traveled with the movements of migrants and merchants who adapted their laws to local contexts while holding firm those elements that forged identity and community, especially in the face of newness and uncertainty. The common law was regularly confronted by these "other" legal systems, demanding recognition and negotiation and producing outcomes that were at once unintended, unpredictable, yet often durable. The importation, enactment and imposition of British law in colonial jurisdictions was debated and contested, producing creolized and hybridized forms of legality in the process.[9]

Although travel is most often conceived in terms of geographical or spatial movements, the articles in this Forum present law's multiple chronologies and temporal scales as integral to its circulation. The movements of law, as Macaulay suggests, occurred in *and* across time. In its itinerancy, British law aspired to absorb disparate lands and peoples—including those divided across civilizational times ("Europe then" and "India now")—into a common repertoire of universal time. Whereas geographical understandings and impositions of law created opportunities for the production of new knowledges and the implementation of novel forms of governance, the expansion of law—

7. Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge: Cambridge University Press, 2010), 3.

8. Ibid, 9.

9. Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History* (Cambridge: Cambridge University Press, 2002).

particularly its concomitant extension of European time—remained an integral but often invisible force of colonial rule.[10] British conceptions of time were produced, repeated, and legitimized in the paper trails of colonial bureaucracy. The use of calendric and clock time acknowledged some dates and chronologies but not others, incorporating territories, peoples, customs, and beliefs into an overarching framework, in which Britain reigned supreme.[11] Each of the articles in this Forum presents evidence to suggest that legal struggles and disputes centered on contests over history, chronology, and sequence. The imposition, reliance, and repetition of British time in public life aimed to erode and displace, albeit never entirely, other chronologies and cosmologies that underpinned law and structured everyday routines.[12]

Adopting a transnational and transcontinental frame, the articles in this Forum examine the multiple ways in which law traveled across jurisdictional divides in Britain's Indian Ocean regions. A collective strength of the articles is that the authors move beyond the common law to consider the movements of other legal forms, including Islamic and family law systems. Whereas legal historians have advanced the argument that law travels, the articles in this Forum demonstrate the movements and mobilities of different types of law, the intended and unintended routes, processes, and outcomes of transnational and transregional mobility and how these movements in turn shaped what came to be authorized as law.[13] Focused on the period between 1865 and 1945, a critical juncture that spanned the high mark of British imperialism and its impending demise, the five articles that follow investigate how law moved across jurisdictions in the Indian Ocean arena and to what effect. As a region with a long history of travel, pilgrimage, trade, and commerce, the Indian Ocean offers a rich site in which to examine the geographical and temporal routes, modes, and consequences of legal travels in their polyphonous and peripatetic forms. Circulations of European and Islamic law have long marked the Indian Ocean arena as a site of overlapping claims and legal conflicts. What came to be known as "international law" in seventeenth century

10. On law as a temporalizing force in colonial contexts, see Renisa Mawani, "Law as Temporality: Colonial Politics and Indian Settlers," University of California *Irvine Law Review*, 4(1), 2014, 101–130 also Sudipta Sen, "Unfinished Conquest: Residual Sovereignty and the Legal Foundations of the British Empire in India," *Law, Culture and the Humanities* 9 (2013): especially 239–242. For a classic account of law and time, see Carol Greenhouse, *A Moment's Notice: Time Politics Across Cultures* (Ithaca: Cornell University Press, 1996).

11. These points are elaborated in Mawani, "Law as Temporality."

12. U. Kalpagam, "Temporalities, History and Routines of Rule in India," *Time and Society* 8 (1999): 141–59.

13. We are referring specifically to Benton, *A Search for Sovereignty*.

Europe, emerged in part from disputes over trade, sovereignty, and diplomacy in the eastern Indian Ocean region.[14] Much of the scholarship in this area has centered on the early modern period. However, the nineteenth century onwards was also a time of intense mobility, circulation, and exchange. Attention to this later historical moment sheds light on imperial continuities and discontinuities, including different forms of nested sovereignties, while also revealing the disjunctures and productive overlaps between the local, regional, transnational and global.[15]

Exploring "Indian Ocean history in all its richness," Sugata Bose writes, requires us "to imagine a hundred horizons. . .of many hues and colors."[16] Bose's interest centers on British Indians who crossed the Indian Ocean (including soldiers, writers, Muslim pilgrims, and anticolonials). However, "a hundred horizons" offers fresh opportunities to rethink the Indian Ocean as a place of *ongoing* legal mobility, activity, and creativity. Indian Ocean studies have long been dominated by an interest in trade. From the vantage point of law, trade routes held wider purposes and effects and etched itineraries for other traveling forms. Whereas circuits of trade paved the way for consensual and forced migration, they also fomented the movements and undertakings of legal actors and the cultivation of legal ideas and institutions across time, space, and borders.

Ambiguity and uncertainty were not merely *outcomes* of law's movements, but critical *components* in law's capacity to travel across time and space. Julia Stephen's contribution to this Forum traces the itinerary of migrants from Awadh to Ottoman Iraq. In order to maximize their chances for success, the litigants brought forth inheritance cases in multiple jurisdictions, raising broader questions regarding the boundaries between personal law and territorial legal systems. British attempts to ensure legal certainty through the putative supremacy of British law were asserted through principles of territoriality. Yet "the persistence of uncertainty, far from undermining the workings of colonial law, helped fuel its ongoing expansion," Stephens argues. Ambiguity and contradiction, made so much more acute

14. This is not a universally accepted view. However, Grotius's *Mare Liberum*, which is often cited as one of the origins of international law, especially in relation to the seas, was a response to a Dutch–Portuguese conflict in the Straits of Singapore. See Hugo Grotius (David Armitage, ed.), *The Free Sea* (Indianapolis: Liberty Fund, 2004). On the Indian Ocean as the origins of international law, see also Kerry Ward, *Networks of Empire: Forced Migration in the Dutch East India Company* (Cambridge: Cambridge University Press, 2009), 23. For a very useful reading of Grotius see Benton, *A Search For Sovereignty,* 120–37.

15. Engseng Ho, "Empire through Diasporic Eyes: The View from the Other Boat," *Comparative Study of Society and History* 46 (2004): 210–46.

16. Sugata Bose, *A Hundred Horizons: The Indian Ocean in the Age of Global Empire* (Cambridge: Harvard University Press, 2006), 4.

when litigants and their property travelled across jurisdictional boundaries, served not to inhibit the authority of British law but provided occasions for its reiteration and repetition via legislative interventions, through the role of courts as producers of facts and norms, and as justifications for colonial surveillance.[17] Iza Hussin's contribution also takes up the theme of ambiguity, but from the perspective of Johor, on the very eastern margins of the Indian Ocean arena, and traces law's circulations across an equally broad terrain. Monarchs, such as the sultan of Johor, she argues, balanced local, regional and imperial languages of law and legitimacy in order to consolidate their positions at a time of significant global change. In the last years of the nineteenth century, British law formed an integral part of the political repertoire of non-European monarchs. However, the travels of law required constant localizations and ongoing translations. Hussin shows that law's ambiguities, its many languages and many voices, were key to its mobility and longevity. Focused on distinct contexts, Stephens and Hussin demonstrate how legal overlaps, appropriations, and translations allowed otherwise contradictory and incommensurable systems of law to converge at critical junctures, reinforcing each other, as in the case of personal law and constitutional law in the nineteenth century.

Law's ability to balance multiplicity and ambiguity opened tangible and abiding ways to order systems of exchange and to define regions. Fahad Bishara's essay traces the travels of Islamic law through the *waraqa* as they moved across the western Indian Ocean region. He shows how these deeds, and the form of contract they signified, were the "vehicles through which vernacular understandings of law—of jurisprudence, of obligations, and of the measures and standards necessary to coordinate action—traveled around the Indian Ocean."[18] Here, law and jurisprudence helped constitute the arena of the Indian Ocean itself by providing a common and recognizable lexicon. The *waraqa* were the material through which the Indian Ocean arena was described and delimited geographically; they provided the basis for mutual trust and legibility in Indian Ocean economics; they helped to articulate and circulate "a legal grammar," through Islamic law, which helped to coordinate economic life in the region.[19] Rohit De's study of the Privy Council also emphasizes the agency of law through its institutional forms. British imperial institutions such as the Privy Council, he argues, promoted law's mobility by expanding its jurisdictions. In De's account, legal institutions emerge not as neutral fora, or as instruments of political strategy,

17. Stephens, "An Uncertain Inheritance," this volume.

18. Bishara, "Paper Routes: Inscribing Islamic Law across the Nineteenth-Century Western Indian Ocean," *Law and History Review*, this volume.

19. Ibid, 5.

but as strategic actors embedded in the travels and development of British law at a time of perceived vulnerability. By paying close attention to the creation of racial hierarchies between jurisdictions and within the legal profession, as well as conflicts between imperial and local visions of justice, De's contribution highlights "fault lines. . .in the circuits of law within the British empire."[20]

Each of the articles in this Forum combines methodological innovations and rich substantive materials as a way to rethink multiple forms of law as a moving set of idioms and practices that were at once local, national, and regional, as well as imperial, transnational, and global. Therefore, we suggest that the travels of law demand a multiscalar approach. For Stephens, law's movements must be traced through a synthesis of micro and macro scales, through what she aptly terms "a double vision of colonial law." This ability to see up close and afar opens insights into the mobility of law, its changing constellations, and shifting contours. Each of the articles speaks to the fluid and contested arenas of law, pointing to the malleability of boundaries and to the disparate connections its movements make possible. Riyad Koya's contribution examines the application of Muslim personal law in Fiji, revealing that the debate on Islamic law in the Indian Ocean was itself governed by emergent transnational and international politics situated within frames of locality and imperium. In these debates, Fiji was described as a region that was geographically separate and temporally distinct from India. Koya draws attention to the ways in which local politics and geopolitical shifts engendered and disrupted quests for legal certainty that were predicated upon spatial and temporal arguments, and on visions of proximity and distance.

This Forum contributes to a growing interest in legal mobilities *and* in Indian Ocean studies.[21] Placing these two substantive fields in conversation, the five articles examine the movements of law across colonial and imperial contexts and in various directions—from Europe and its metropolitan centers including London, as Macaulay insisted in his speech—and from India extending across the Indian Ocean arena. Following the influential work of Thomas Metcalf, this Forum seeks to make an imperial paradigm shift; we view India not as another one of Britain's colonies but as a central "nodal point" from which law and governance "radiated outward."[22] By the nineteenth century, after nearly two centuries of British rule, first under the East

20. De, "A Peripatetic World Court?": Cosmopolitan Courts, Nationalist Judges and the Colonial Appeal to the Privy Council," *Law and History Review*, this volume.

21. Other works that have started to draw these fields together to discuss law in the Indian Ocean include Thomas R. Metcalf, *Imperial Connections: Indian in the Indian Ocean Arena, 1860–1920* (Berkeley: University of California Press, 2007), 1; Ward, *Networks of Empire*.

22. Metcalf, *Imperial Connections*, 1.

India Company and then the crown, India proved vital to the expansion and development of imperial law and governance across the Indian Ocean. Amidst unrelenting criticism from many of his contemporaries, Macaulay commended the East India Company for its efforts to govern India effectively. Company officials, he explained, were confronted with a vast, diverse, and disparate geography and population. The company "is the strangest of all governments," Macaulay conceded, "but it is designed for the strangest of all empires."[23] The regional heterogeneity and putative inscrutability of India created numerous challenges for British rule, he suggested. Given India's "strangeness," the British common law could not simply be transported and superimposed onto Indian society. The common law might be suited to a *civilized* country such as England, with its judicial institutions, its bar, and its well-trained judges. However, to be governed effectively, Macaulay insisted, the unwieldiness of India demanded a set of written laws. After years of deliberation and delay, these Indian codes—which centered on criminal law, criminal and civil procedure, and contract—would eventually travel eastward and westward across the Indian Ocean, connecting the British Empire through a moving circuit of regulations, ideas, and institutions.[24]

Faced with a diversity of native legal traditions, forms of authority, and religious customs, British rule in India took on an innovative and experimental character.[25] In many ways, India proved to be a highly successful test case. The *Indian Penal Code* (1860), which was initiated by Macaulay and developed and implemented by his successors, became the legal apparatus that was to inspire and inform the development of colonial legal regimes on both sides of the Indian Ocean, in Malaya, Singapore, Egypt, and East Africa. The *Indian Penal Code* presents one vivid example of law's itinerancy. Precisely because the common law was thought to be unsuitable for India, the subcontinent was the first of any common law countries to be given a penal code.[26] In their efforts to create a synthetic, unified, and written law, imperial authorities looked to England and to North America, to the common law, the Louisiana civil code, and the New York codes for inspiration.[27] Three decades later, a number of British jurisdictions followed India's example. Canada enacted its first

23. Macaulay, "A speech delivered," 559.

24. See Metcalf, *Imperial Connections*. See also Iza Hussin, "Circulations of Law: Colonial Precedents, Contemporary Questions." *Onati Socio-Legal Series* 2 (2012): 18–32.

25. Karuna Mantena, *Alibis of Empire: Henry Maine and the Ends of Liberal Imperialism* (Princeton: Princeton University Press, 2010), 54.

26. It is important to note that British jurists viewed law as a gift that was to be bestowed on Britain's colonies. See Peter Fitzpatrick, *The Mythology of Modern Law* (London: Routledge, 1992), 107.

27. Kolsky, "Codification," 632.

criminal code in 1892, followed by New Zealand in 1893.[28] As debates on codification unfolded in England, some claimed that the enactment of an Indian code would assist in extending British rule elsewhere. These codes would eventually travel home, others predicted, where they would invite reforms and reformulations of the British common law.[29] By the end of the nineteenth century, imperial rule in India provided the legal and political architecture, albeit adapted and modified, for British rule in Indian Ocean jurisdictions. Focused on different time periods and distinct geographical contexts, the articles in this Forum emphasize the transformative role of India as a port of call for law's travels.

As suggested in our discussion of the achieved and anticipated movements of the *Indian Penal Code*, law's travels were not unidirectional or straightforward. The British common law may have been celebrated as Britain's greatest achievement, but it did not move directly from metropole to colony, along the routes or in the directions that Macaulay envisioned. Imperial historians have sought to challenge the unidirectionality of movements, most commonly characterized in metropole-colony and center-periphery models, formulations that have long been at the heart of British imperial histories.[30] Through his "webs of empire," Tony Ballantyne argues quite persuasively that the itineraries of imperial movements were far more dynamic than historians have understood them to be. People, ideas, and commodities did not travel in a straight line from London to the colonies, or vice versa. Imperial circuits were often multidirectional, densely layered, overlapping, and in some cases incommensurable, as Macaulay's comments suggest. The web metaphor, Ballantyne argues, foregrounds the "horizontal" movements that unfolded between colonies, particularly the ways in which "imperial institutions and structures connected disparate points in space into a complex mesh of networks." For Ballantyne, the web "also conveys something of the double nature of the imperial system." Therefore, "[e]mpires, like webs, were fragile (prone to crises where important threads are broken or structural nodes destroyed), yet also dynamic, being constantly remade and reconfigured through concerted thought and effort: the image of the web reminds us that empires were not just structures, but processes as well."[31] How far might we take this web analogy in discussions of law? Whereas law's circulation and movements generated an assortment of connections and

28. Mantena, *Alibis of Empire*, 91.

29. Kolsky, "Codification," 653.

30. Ward, *Networks of Empire*, 7.

31. Tony Ballantyne, "Race and the Webs of Empire: Aryanism from India to the Pacific," *Journal of Colonialism and Colonial History* 2 (2001): 39.

contacts between colonies and Dominions, these were not horizontal, but hierarchical and unequal. Depending upon the terrains it crossed, the travels of law often performed British supremacy, symbolically, materially, and violently. Therefore, the nodal points of legal webs were organized asymmetrically and unevenly, privileging certain forms of law in particular times and places while undermining and obscuring others.

Law traveled via document and decree, but it also moved with people and populations. In other words, the travels of law were both a corporeal and embodied practice. Imperial authorities and colonial subjects carried law on ships and trains and across established trade routes, its movements forging new legal itineraries and formulations in the process. The *Indian Penal Code*, as our discussion suggests, journeyed in a circuitous route, crisscrossing territories and circling within imperial networks, while consolidating disparate territories into a wider regime of imperial governance. Codification in India was the outcome of protracted transcontinental deliberations, negotiations, and contestations that unfolded among imperial authorities in London, India, and in other jurisdictions where the British tried to impose the *Indian Penal Code*. These impositions did not go unchallenged, and the travels of law often changed course along the way. In 1884, the Consular Court in Zanzibar was designated to be a district of Bombay. Whereas the *Indian Penal Code* and other Indian civil codes were intended to guide the court's jurisdiction, appeals were made to the Bombay High Court, authorizing a clear territorial connection between India and the coastal regions of East Africa. In 1890, these relations were only reinforced when a similar court was set up in Mombasa. Here, as in India, the *Indian Penal Code* operated uneasily in conjunction with Islamic and indigenous laws.[32] After World War I, as resistance to Indian codes intensified among East Africa's European settlers, British authorities began questioning the political utility and efficiency of imposing "Indian law."[33] Therefore, efforts to transport the *Indian Penal Code* from India to other Indian Ocean regions were responsive to political and legal developments, to local and regional dynamics, and to growing racial tensions. Negotiations over Indian codes in East Africa did not take place solely between imperial authorities and local elites. They also unfolded among European constituencies who questioned its appropriateness in adjudicating disputes among whites.[34]

32. Thomas R. Metcalf, "Empire Recentered: India in the Indian Ocean Arena," in *Colonialism and the Modern World: Selected Studies*, ed. Gregory Blue, Martin Bunton, and Ralph Crozier (New York: M.E. Sharpe, 2002), 35.

33. Metcalf, *Imperial Connections*, 206.

34. Ibid.

As each of the articles in this Forum suggests, the British Empire was a world constantly in motion. Imperial authorities were peripatetic, lending their experience and expertise to multiple jurisdictions across the empire. India was also an important node in this channel of colonial bureaucracy. Lord Cromer, the imperial proconsul in Egypt, drew his experiences of law, policy, and governance directly from India. Imperial authorities were not the only ones to travel, however. Colonial subjects also enjoyed certain freedoms of movement at different historical moments. Although mobility was regarded to be the sine qua non of British political and economic dominance, as territorial boundaries hardened, colonial migrations came to be regarded as growing impediments to imperial control and governance. In their efforts to regulate the movements of colonial subjects, authorities enacted and enforced various forms of legislation to secure territorial borders. By trying to fix mobility through territoriality, as Julia Stephens argues in this volume, the common law created additional problems with which it was forced to contend, including jurisdictional conflicts, irregularities, and inconsistencies. The outcome of this plurality was mixed. Whereas legal uncertainty resulted in the creation and imposition of additional laws and intensifying regimes of violence, uncertainty also produced novel legal opportunities.[35] As Fahad Bishara argues in this volume, colonial subjects seized legal ambiguities as occasions to produce new ideas, forms, and vernaculars of law that afforded uniformity and consistency amidst the heterogeneity of Indian Ocean worlds.

The movements of law were neither certain nor infallible. Rather, encounters between the common law, codes, and personal law systems generated conflict, debate, and critique, opening sites for resistance and repudiation. As the common law, Indian codes, and Islamic law traveled, they brought disparate peoples into their respective folds and jurisdictions. The British in India, as Macaulay's speech makes clear, were forced to recognize the existence of native legal forms, including personal law systems. After the rebellion of 1857, and fearing additional insurrection, jurists such as Henry Sumner Maine urged that natives were best governed not through foreign law, but through their own customs, traditions, and institutions.[36] Perhaps ironically, during his 7 years in India, Maine oversaw the enactment of more than 200 statutes. Throughout this process, he

35. On legal uncertainty in a different geographical context of the British Empire, see Renisa Mawani, *Colonial Proximities: Crossracial Encounters and Juridical Truths in British Columbia, 1871–1921* (Vancouver: University of British Columbia Press, 2009). For a recent argument on the potential for legal pluralism to oppress and liberate see Paul D. Halliday, "Law's Histories: Pluralisms, Pluralities, Diversity," in Benton and Ross, *Legal Pluralism and Empires*, 262.

36. Mantena, *Alibis of Empire*, 6.

maintained that the introduction and unmediated imposition of British law would only hinder colonial governance. "If I had to state what for the moment is the greatest change which has come over the people of India and the change which has added most seriously to the difficulty of governing them," Maine wrote in *Village Communities in East and West*, "I should say it is the growth on all sides of the sense of individual legal right."[37] For Maine, legal right not only eroded existing indigenous customs and legal regimes but opened possibilities for native demands to equality and justice. The introduction of British law in India prompted colonial subjects to ask why this law—which claimed to be a beacon of universality and equality—remained fundamentally unequal and exclusionary. By the late nineteenth and early twentieth centuries, the common law's promise forged the basis for Indian demands for equality, including innovative claims to "imperial citizenship."[38]

Over the past decade, there has been a growing interest in legal pluralism, transmission, and transplants. Like this Forum, one objective of this literature has been to emphasize the movements of law across territories and jurisdictions. Much of this scholarship has traced the mobility of codes and the common law. The dynamic movements of multiple legalities, including Islamic law and other personal law systems, still require further attention and is one problem that the articles in this Forum seek to develop and elaborate. Moreover, the language of transmission and transplant, we maintain, provides an ineffective and misleading set of metaphors through which to examine and explain the travels of law. To begin, the imposition of British law was seldom a smooth process. As we have intimated, laws were not simply transplanted and superimposed onto colonial societies and native populations, but were longstanding sites of struggle, conflict, and negotiation that drew attention from British authorities. Riyad Koya's article on the application of Islamic law in Fiji reveals that the imposition of law generated protracted and heated debates that spanned territorial divides, producing intended and unintended outcomes. Many jurists, including Macaulay, agreed that laws needed to be interpreted and translated for local contexts and populations. Others, such as Maine, insisted that natives needed to be ruled by their own laws, the meanings of which also required elucidation in their application.

37. Maine, *Village Communities,* 73.

38. On claims to "imperial citizenship," see Sukanya Banerjee, *Becoming Imperial Citizens: Indians in the Late Victorian Empire* (Durham: Duke University Press, 2010); Renisa Mawani, "Specters of Indigeneity in British Indian Migration, 1914," *Law and Society Review* 46 (2012): 369–403.

Ironically, the fidelity of legal regimes often relied upon processes of translation rather than straightforward enforcement or transplantation. Even translation itself required sifting through layers and sedimentations of multiple meanings. Judges and lawyers in colonial contexts were enmeshed in a series of interpretative structures and practices. Reliant on native interpreters and scribes, they moved between languages—including the vernaculars of law—rendering them legible, relevant, and legitimate to cases and contexts at hand.[39] Ultimately, we view the terms "legal transmission" and "transplantation" as too neat and tidy to account for the unruliness of law's movements. As Iza Hussin argues elsewhere, concepts such as transmission and transplantation work to "sanitise the drama of law's travels and remove its human agents as well as their bargaining, disputation, violent confrontation, and uneasy accommodations."[40]

Taken together, the five articles in this Forum demonstrate that the adaptability and malleability of law—British common law, codes, and personal law alike—are not simply inherent properties of law. Rather, the contributors emphasize law's flexibility and plasticity as significant aspects of its mobility.[41] Law traveled in multiple ways and along disparate routes: through precedent and interpretation by colonial judges, lawyers, and clerks (Stephens and Koya), in the translation and innovation of legal concepts and ideas (Bishara), through competing visions and promises of justice (Hussin), and via institutional anxiety and change (De). Each of the contributors emphasizes law's travels as simultaneously embodied and disembodied. Treatises, decrees, recommendations, and legal responses to social and political exigencies were often sent to Britain and its colonies via telegram and steamship, inscribing familiar, and in some cases, new patterns and itineraries of rule. However, law also moved through the forced, imposed, and consensual mobilities of peoples and populations, in varied investments in different forms of law, and in shared and contested visions of justice. Colonial authorities, including local elites, were often peripatetic (Hussin). So too were judges, lawyers, and clerks. Britain regularly moved its officials between jurisdictions, granting additional responsibilities to those who demonstrated sound judgment and leadership while

39. For a wonderful account of scribes in South India, see Bhavani Raman, *Documenting Raj: Writing and Scribes in Early Colonial South India* (Chicago: University of Chicago Press, 2012).

40. Hussin, "Circulations of Law," 21.

41. In a recent essay, Jane Burbank and Frederick Cooper argue that "successful imperial law had to be variegated and adaptable to all multiple and changing circumstances." See Jane Burbank and Frederick Cooper, "Rules of Law," 280. Collectively, the contributors to this Forum extend their argument by demonstrating that the mobility of law was central to its adaptability and variability.

punishing the insolent agents of empire who did not uphold Britain's rules, regulations, or character.[42] Anxious about the possible demise of its own authority, Britain sent its Privy Council to the Dominions, to retain its power as the highest court of the empire (De). By emphasizing law's embodied and disembodied movements, the articles in this Forum point to the changing force of law. They emphasize the multiple connections and continuities of law across time and space that are often obscured through our analytic reliance on prevailing categories, distinctions, and abstractions that continue to tether law territorially to national and imperial polities.

Transmission and transplantation do not sufficiently account for the consequences that legal travels held for law itself, the ways in which law's movements across the Indian Ocean, for example, altered its own substance, meanings, and outcomes. In law's itineraries—its circulations and fluctuations, its translations and misreadings, its elisions and contradictions, its echoes and its retrospective gestures—we catch glimpses of the formations of law, its ongoing negotiations with other legal systems, as well as the work that law must continually do to maintain itself as an authorizing force.[43] The contributions to this Forum invite new ways of rethinking the work that law does, to which its movement and travel are so essential. This, we hope, will be the beginning of a much longer conversation on the dynamic, durable, and overlapping qualities of the common law, legal code, and personal law. The moments in which law can be seen in motion offer deeper insight into the ways in which different laws are performed and require performance; how law's uncertainties and contradictions generate its authority, omnipresence, and proliferation; the ways in which law's agents and actors draw law out into the world beyond texts and courts; and how the world, in its many registers, finds its way back into legal spheres. The articles in this Forum offer exciting methodological innovations and substantive historical discussions, inviting new questions on imperial sovereignty, diaspora, and transnationality, and pointing to a few destinations where this conversation might lead. The travels of law, we contend, invite provocative and productive ways to reimagine colonial legal history as a history of law's mobility.

42. John McLaren, *Dewigged, Bothered, and Bewildered: British Colonial Judges on trial, 1800–1900* (Osgoode Society for Canadian Legal History. Toronto: University of Toronto Press, 2011).

43. Justin Richland, unpublished comments at "Indian Ocean Circuits of Law" workshop, University of Chicago April 12, 2013.