An Uncertain Inheritance: The Imperial Travels of Legal Migrants, from British India to Ottoman Iraq

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Like many nineteenth-century travelers, Iqbal al-Daulah, a cousin of the Nawab of the Indian princely state of Awadh, navigated multiple legal systems as he migrated across Asia, Europe, and the Middle East. Living through the absorption of Awadh into the expanding British Empire, he eventually joined a community of Indian Shias in Ottoman Iraq, who regularly used British consular courts. While still in India, Iqbal al-Daulah composed a tribute in Persian and English to British justice. He described British courts in the following laudatory terms: "What Ease is afforded to Petitioners! The Doors of the numerous Courts being open, if any by reason of his dark fate, should be disappointed in the attainment of his desire, in one Court, in another he may obtain the Victory and Succeed."[1] Iqbal al-Daulah secured a sizeable pension and knighthood from the British government. However, at the end of his life, he had lost faith in British courts. In his will he lamented: "British courts are uncertain, stock in trade of bribery, wrong, delay...the seekers of redress, are captives of the paw of the Court officials; and business goes on by bribery not to be counted or

1. Iqbal al-Daulah, *Iqbal-i Farang: Dar Shamma-yi Siyar-i Ahl-i Farang ba Farhang* (Calcutta: Matba-yi Tabi, 1249), 45–47.

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described."[2] Despite Iqbal al-Daulah's words of caution, his friends and relatives became enmeshed in legal battles over his inheritance in British courts in India and Ottoman Iraq. In doing so, they joined the crowds of colonial subjects who flooded the courts, enduring expense and annoyance despite the prospect of uncertain outcomes.

Iqbal al-Daulah's both more and less laudatory descriptions of colonial courts emphasized the flexibility of British law, although his earlier faith in the opportunities this malleability presented faded into frustration with its uncertainty and corruption. The picture of British justice that Iqbal al-Daulah presented stood in stark contrast to the official vision of colonial law. James Mill succinctly captured the goal of colonial law when he argued that it must deliver justice with "Clearness, certainty, promptitude, cheapness. . ."[3] For Utilitarian reformers such as Mill one of the greatest gifts Britain could bestow on its colonies was an ordered and efficient legal system that would direct human behavior toward social good. British officials believed that certainty was particularly important in colonial legal systems such as India, which catered to diverse populations and, therefore, relied on multiple sources of law. As Thomas Macaulay, the first president of the Indian Law Commission, argued, "Our principle is simply this: uniformity where you can have it; diversity where you must have it; but in all cases certainty."[4] Therefore, where a single unified system was not possible, colonial law strengthened legal hierarchies and divisions to deliver predictable results. The promised benefits of legal certainty powered the globalization of European law, both through the formal spread of empire and through the modernizing legal reforms that non-European powers pursued to stave off colonization. Along with maps, censuses, and dictionaries, law codes recorded cultural and religious differences while disciplining them to conform to modern legal rationality.

However, echoing Iqbal al-Daulah's observations, scholars in recent years have emphasized the ambiguity and flexibility of colonial law, unsettling a simplistic picture of the totalizing power of colonial knowledge. This shifting analysis has often placed greater emphasis on studying actual legal cases, revealing that the workings of colonial courts were more complex and varied than was apparent from studying legislation and legal texts alone. This scholarship has highlighted the agency of colonial subjects and

2. Translation of Will of Late Nawab Sir Ikbal-ud-Daula, 21, National Archives of India (hereafter NAI)/Foreign/Internal A/June 1888/Nos. 216–40.

3. James Mill, *The History of British India*, vol. 5, 2nd ed. (London: Baldwin, Cradock, and Joy, 1820), 474.

4. Thomas Babington Macaulay, "Government of India," in *The Complete Works of Thomas Babington Macaulay: Speeches and Legal Studies*, University ed. (New York: Sully and Kleinteich, 1900), 164.

challenged simplistic narratives of top-down colonial domination.[5] Iqbal al-Daulah's comments support this line of argument, suggesting that uncertainty, as much as knowledge, shaped colonial legal encounters.[6] His deathbed lamentations, however, caution against framing these histories of uncertainty as a triumph of subaltern agency or a weakening of colonial domination. Whereas historians have often seen the ambiguity of colonial law as opening up opportunities for subaltern resistance, for Iqbal al-Daulah, the uncertainties of the law frustrated colonial litigants, as much as they foiled the objectives of imperial officials. However, despite its failings, colonial law did not wither away, nor did litigants such as Iqbal al-Daulah's relatives abandon the colonial courts. Faced with unpredictable outcomes, litigants brought cases in multiple jurisdictions to maximize their chances of success, and officials drafted new laws to clarify unclear cases. Uncertainty, therefore, often fueled more, rather than less, legal activity, and the persistence of uncertainty, far from undermining the workings of colonial law, powered its ongoing expansion.[7] This article explores how these dynamics of uncertainty functioned alongside colonial law's emphasis on certainty through a close study of the legal disputes over the estates of Iqbal al-Daulah and one of his distant relatives, Taj Mahal Begam. A dancer who married the Nawab of Awadh, Taj Mahal, like Iqbal al-Daulah, later migrated and died in Ottoman Iraq, where an intense struggle ensued over her estate.[8]

Tracing the history of these cases requires working at multiple geographical and analytical scales, in order to understand both the broad legal terrain through which the cases traveled as well as the complex local and global negotiations that the inheritance disputes inspired. The cases unfolded between the heart of Britain's empire in colonial India and one of its Indian Ocean frontiers, Ottoman Iraq, where Britain exercised a range of informal forms of control, including operating a system of extraterritorial courts. The article begins by surveying this landscape, highlighting the ways in which law worked to integrate varied imperial

5. The pioneering work in this field is Lauren A. Benton's *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900* (Cambridge: Cambridge University Press, 2002).

6. For another account emphasizing the uncertainties of colonial law, see Sally Engle Merry, "Colonial Law and Its Uncertainties," *Law and History Review* 28 (2010): 1067–71.

7. On uncertainty in other colonial contexts, see Ann Laura Stoler, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton: Princeton University Press, 2009); and Renisa Mawani, *Colonial Proximities: Crossracial Encounters and Juridical Truths in British Columbia, 1871–1921* (Vancouver: UBC Press, 2009), esp. 14–15, 209.

8. K. S. Santha, *Begums of Awadh* (Varanasi: Bharati Prakashan, 1980), 283–85.

geographies through overlapping legal vocabularies.[9] In both India and the Ottoman Empire, Britain deployed the twinned concepts of territorial and personal law to assert British paramountcy. A substantial body of scholarship has charted the rising influence of territoriality during the nineteenth century, as European nations at home and in their empires centralized law within geographically bounded spaces, displacing the more plural legal orders that had dominated the early-modern world.[10] Far less attention, however, has been paid to how these new discourses of territoriality relied on juxtaposing European territorial sovereignty against the supposed personal sovereignty of non-European powers. Where a single uniform legal system was impossible, Britain relied on the distinction between territorial and personal law to reorder the overlapping legal jurisdictions they inherited from the Mughals and Ottomans into clear hierarchies and divisions. By promising that these newly ordered legal systems would deliver certainty in the place of arbitrary "Oriental" justice, Britain justified increasingly aggressive legal interventions in its colonies and informal spheres of influence.

However, as the legal disputes over the Awadh inheritances make clear, when we shift from a birds-eye perspective of this legal landscape to an in-depth analysis of how cases unfolded in practice, this vision of certainty unravels into dynamics of uncertainty. Consular courts in Iraq and courts in India competed for jurisdiction over the estates, while Ottoman and British officials squabbled over who was responsible for administering the property. Because both Iqbal al-Daulah and Taj Mahal Begam received large government pensions, officials were unwilling to leave the cases entirely to the courts, and instead intervened in speculations about illegitimate children and invalid bequests. These jurisdictional quarrels left behind reams of correspondence that documented in great detail the struggles that unfolded inside and outside the courts for control over the estates. These records provide insight into how colonial litigants financed exorbitant legal fees, and how networks of intimidation outside the courts influenced legal outcomes, details rarely included in published legal decisions. Ironically, the exceptional nature of the Awadh case, therefore, provides a rare window into the quotidian workings of colonial justice. The cases suggest that uncertainty deeply shaped how colonial subjects, whether

9. On such legal connections, see Thomas R. Metcalf, *Imperial Connections: India in the Indian Ocean Arena, 1860–1920* (Berkeley: University of California Press, 2007), 17–32.

10. "Consigning the Twentieth Century to History: Alternative Narratives for the Modern Era," *The American Historical Review* 105 (2000): 807–31. On legal territoriality, see Benton, *Law and Colonial Cultures*; Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788–1836* (Cambridge: Harvard University Press, 2010).

former princes or more humble litigants, interacted with British courts, spurring diverse mechanisms for managing unpredictable outcomes.

Following the lives, and legal afterlives, of imperial migrants such as Iqbal al-Daulah and Taj Mahal Begam, therefore, brings into dialogue scales and methods of studying colonial law that often remained isolated from each other. The geographical reach of their lives challenges us to think about how colonial law worked at imperial scales; ordering diverse political landscapes into increasingly interconnected legal spheres. The depth of the historical record that their cases left behind draws us deep into the workings of colonial justice, documenting outcomes that were contingent and unpredictable. As a result, the inheritance cases present a challenging picture of colonial law in which certainty and uncertainty, global connections and local machinations, legal discourse and practice coexisted, even if they at times seemingly pulled in different directions. Taking the inheritances cases as a point of departure, the article outlines some preliminary thoughts on how historians can bring these perspectives into greater dialogue, tracing mechanisms through which certainty and uncertainty both fueled the imperial travels of law.

Ordering Imperial Legal Landscapes

Iqbal al-Daulah's and Taj Mahal's lives were deeply entangled with the territorial growth of Britain's Indian and Indian Ocean empire. Both recognized early on the growing influence that the British exercised over the theoretically independent Awadh dynasty. Iqbal al-Daulah traveled to London in the late 1830s to petition the British government to intercede on his behalf in a dispute over succession to the Awadh thrown.[11] Taj Mahal asked the British resident, who represented British interests at the Awadh court, to prevent her husband's family from placing guards on her house because of her supposed sexual improprieties.[12] Although neither effort was successful, Iqbal al-Daulah's and Taj Mahal's lives were, nonetheless, deeply shaped by Britain's imperial ambitions. Taj Mahal was one of the beneficiaries of a loan agreement between the East Indian Company and the Nawab, which linked the Awadh dynasty's financial fortunes to the capital needs of the expanding British Empire.[13] In

11. Michael Herbert Fisher, *Counterflows to Colonialism: Indian Travellers and Settlers in Britain, 1600–1857* (Delhi: Permanent Black, 2004), 271.

12. Santha, *Begums of Awadh*, 284.

13. Charles Umpherston Aitchison, ed., *A Collection of Treaties, Engagements, and Sanads Relating to India and Neighbouring Countries*, vol. 2 (Calcutta: Office of the Superintendent of Government Printing, India, 1892), 140–42.

exchange for low-interest loans, the British paid pensions to members of the Nawab's family and their heirs.[14] Having already raided the Nawab's coffers, the British annexed Awadh in 1856. Iqbal al-Daulah's and Taj Mahal's fates were, therefore, overtly influenced by the physical expansion of Britain's colonial territories. Their lives, however, and particularly their legal afterlives, also testify to how Britain deployed the concept of territoriality much more broadly. Like a surveyor's map, the concept of territoriality rendered a diverse range of legal arrangements into a single mode of representation that emphasized Britain's mastery over the landscape caught within its frame.

Britain ultimately extended this legal map from its formal territories in India outwards into the Indian Ocean rim, establishing a network of "protected states," where native rulers operated under British supervision, and across an even wider indistinct sphere of informal influence. In this third sphere, which included Ottoman Iraq, or what the British referred to as "Turkish Arabia," Britain claimed special legal privileges, asserting the right to protect its own subjects from laws it deemed uncivilized. Britain claimed such jurisdiction over a large community of Indians who traveled on pilgrimage to Shia shrines, some of whom, such Iqbal al-Daulah and Taj Mahal, settled permanently in the region. Indians, including the Awadh royal family, also made significant financial gifts to shrines and scholars in the region.[15] Citing the steady flow of Indian pilgrims and capital, as well as Britain's trading interests in the Persian Gulf, the British jealously guarded their right to maintain a large consular bureaucracy in Iraq.[16] For Indians such as Iqbal al-Daulah and Taj Mahal, Ottoman Iraq could at times feel distinctly British. Iqbal al-Daulah became a trusted ally of local British officials, lending them support during the Anglo–Persian war, and aiding in the management of the Awadh Bequest, a large religious endowment funded by interest on the Awadh loans. In return, the British paid Iqbal al-Daulah a sizeable pension and awarded him a knighthood.[17] When Iqbal al-Daulah and Taj Mahal died, the British consul in Iraq asserted jurisdiction over their estates.

14. Michael Herbert Fisher, *A Clash of Cultures: Awadh, the British, and the Mughals* (New Delhi: Manohar, 1987), 181–87.

15. Juan R.I. Cole, "'Indian Money' and the Shi'i Shrine Cities of Iraq, 1786–1850," *Middle Eastern Studies* 22 (1986): 461–80.

16. Gökhan Çetinsaya, "The Ottoman View of British Presence in Iraq and the Gulf: The Era of Abdulhamid II," *Middle Eastern Studies* 39 (2003): 194–203.

17. Jerome A. Saldanha, *The Persian Gulf Précis*, vol. VI (Gerrards Cross, England: Archive Editions, 1986), 295–96; and Meir Litvak, "Money, Religion, and Politics: The Oudh Bequest in Najaf and Karbala, 1850–1903," *International Journal of Middle East Studies* 33 (2001): 6–7.

The laws that the consular courts in Iraq actually used to decide such inheritance disputes were Indian religious laws, often called "personal laws," adding yet another layer of complexity to the legal landscape. British consular courts, like courts in India, administered a range of personal laws in cases involving domestic or religious disputes, including marriage, inheritance, or ritual concerns. Even as British officials worked to streamline colonial law, they widely believed that religious differences among colonial subjects and between colonial subjects and their British rulers necessitated special legal accommodations. Outside of Europe, the perceived cultural divide between Christian and non-Christian, and civilized and uncivilized peoples thus checked the push to standardize law within geographically defined units, leading to a range of different legal exceptions.[18]

However, as the Indian and Ottoman cases make clear, British officials managed to incorporate these legal exceptions into a reformulated concept of territoriality, and thus brought diverse legal arrangements into a singular system of legal mapping. Across its colonies, protectorates, and informal spheres of influence, Britain defined its own judicial authority as territorial while classifying non-European laws as personal, a rubric that promised to discipline plural legal regimes into clear and consistent hierarchies. This terminology drew on an emerging body of scholarship on the historical development of European law. One of the most influential scholars in this field, Friedrich Carl von Savigny, argued that after the fall of the Roman Empire, the Germanic tribes that invaded Europe allowed the inhabitants to retain their own laws, fostering a system in which laws attached to persons, rather than to territory.[19] In Europe, according to von Savigny, territorial law gradually replaced personal law because of increasing interaction between different peoples and the unifying force of Christianity, which had "thrown their characteristic differences more and more into the background."[20] In contrast, legal historicists such as von Savigny often cited the Ottoman Empire and India, where different communities enjoyed a considerable degree of legal autonomy, as contemporary examples of personal law.[21] Projecting Europe's past onto the

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

19. Michael H. Hoeflich, "Savigny and His Anglo-American Disciples," *The American Journal of Comparative Law* 37 (1989): 17–37.

20. Friedrich Carl von Savigny, *Private International Law, and the Retrospective Operation of Statutes: A Treatise on the Conflict of Laws, and the Limits of Their Operation in Respect of Place and Time*, 2nd ed., trans. William Guthrie (Edinburgh: T. & T. Clark, 1880), 59.

21. Ibid., 58–62.

non-Western world fueled historicist hierarchies in which Europe's modernity was cast against the supposed legal backwardness of the rest of the world.

The British increasingly used this distinction between territorial and personal law to reorder plural legal landscapes according to hierarchies that subordinated non-European laws. In the middle decades of the nineteenth century, British law, rooted in territorial claims, was increasingly portrayed as secular and universal, and, therefore, capable of providing neutral and efficient justice to a broad range of different peoples. In contrast, British officials labeled non-European legal systems as personal laws, limiting their scope by defining them as familial and religious, and denigrating them as irrational, arbitrary, and resistant to change. In its overseas empire, this twinned vocabulary of territoriality and personality allowed Britain to portray its own sovereign claims as supreme, and, therefore, unified and uncontested, even as it accommodated legal diversity. By replacing overlap with clear divisions and hierarchies, Britain promised, at least in theory, to deliver certain results.

During their lives, Iqbal al-Daulah and Taj Mahal witnessed the British redraw maps of political power in Asia through these new legal hierarchies. In the second quarter of the nineteenth century, the East India Company annexed a large number of Indian princely states, including Awadh. The Company legally justified these acts on the grounds that as the paramount power in India, it had the right to intercede when native rulers were incompetent, disloyal, indebted, or lacked a direct heir, a policy known as the "doctrine of lapse."[22] In asserting its paramountcy, the Company effectively created a hierarchy of sovereignty that "personalized" the authority of native states.[23] The doctrine of lapse circumscribed Indian dynasties to a narrowly conceived family unit, ignoring the flexible modes of incorporation Indian states used to recruit and sustain political leadership.[24] In the case of Awadh, the British justified annexation because of the Nawab's supposed personal incompetency, emphasizing the benefits that systematic and efficient British administration would offer over the erratic whims of its princely ruler.[25] By "personalizing" Indian

22. Sri Nandan Prasad, *Paramountcy Under Dalhousie* (Delhi: Ranjit Printers & Publishers, 1964).

23. On the "personalization" of princely authority in the second half of the nineteenth century, see Mridu Rai, *Hindu Rulers, Muslim Subjects: Islam, Rights, and the History of Kashmir* (Princeton: Princeton University Press, 2004), 81–127.

24. Indrani Chatterjee, *Gender, Slavery, and Law in Colonial India* (Oxford: Oxford University Press, 1999), esp. 28–31.

25. Partha Chatterjee, *The Black Hole of Empire: History of a Global Practice of Power* (Princeton: Princeton University Press, 2012), 185–221.

sovereignty, Britain built its empire on the cheap, using treaties and international law in place of costly military conquests.

Britain also employed the distinction between territorial and personal sovereignty in cases in which it choose not to eliminate non-European sources of law, as in Awadh, but to subordinate them to British legal hegemony. Britain used similar legal vocabulary to limit the scope of religious laws in India, and to expand its consular jurisdiction in Ottoman territories. Britain's legal positions in the two countries were essentially mirror opposites. In India, the British presided over a plural system of different legal jurisdictions, many of which they had inherited from the Mughal Empire. In contrast, in the Ottoman territories, Britain participated in a plural system, under the overarching authority, at least from the perspective of the Ottomans, of the Sublime Porte. Whereas in the eighteenth century, Britain often worked within these flexible and overlapping systems of sovereignty, by the 1830s, officials saw such legal ambiguities as inconsistent with the increasing emphasis that European legal thought placed on centralized and certain justice.

In both contexts, officials underlined the benefits of more aggressive British legal interventions by decrying the uncertainty generated by ongoing entanglement with Muslim legal systems that were derided as arbitrary and fanatical. For example, the British consul in Egypt in the 1830s described: "a country where the total want of written law, renders every sentence the expression of the caprice of the magistrate who awards it, and where the Turkish magistrates, who are invariably selected among the religious people, are imbued with prejudice and hatred against Christians."[26] Although such portraits of Oriental despotism were a staple of European commentary, British officials in India had at times portrayed Indo-Islamic legal traditions in a more positive light, treating them as well suited to local conditions.[27] As late as the 1820s, some colonial commentators insisted that Islamic law as administered by the Mughals was the territorial law of British India, as it had never been formally replaced by English law.[28] In the 1840s, however, the India Law Commission soundly rejected this argument on the grounds that Islamic law was incapable of

26. "Report from the Select Committee on Consular Establishment," 177, House of Commons Parliamentary Papers, 1835 (499) VI.149.

27. Robert Travers, *Ideology and Empire in Eighteenth Century India: The British in Bengal* (Cambridge: Cambridge University Press, 2007).

28. In reviewing this argument the Indian Law Commission referenced the writings of Archibald Galloway, a former colonial officer in Bengal and a director of the East India Company. *Observations on the Law and Constitution of India*. . .(London: Kingsbury, Parbury, and Allen, 1825), 262–63. Although Galloway published the first edition anonymously, he included his name in the 1832 edition.

serving as territorial law because it was intolerant of religious differences. They argued that Muslim jurists neither allowed a Muslim conqueror to retain laws that were incompatible with Islam nor recognized the right of a non-Muslim conqueror to change the laws of a Muslim territory. In contrast, the Indian Law Commissioners argued that, "The English law, as it does not profess to be a revelation from God, may be changed by Parliament in the way of legislation, and by the Courts of law. . ."[29]

These concerns culminated in a series of influential reports written in the 1840s that embraced the language of territoriality to justify sweeping reforms that strengthened and centralized British legal authority abroad. In one of its earliest reports, widely known as the "Lex Loci Report," the Indian Law Commission recommended that English law should be officially declared India's territorial law. In contrast, the Commission described Hindu and Islamic law as "religious and personal Laws," which British courts should only apply in cases involving a limited community of fellow believers.[30] Although the Lex Loci Report's recommendations were never legislatively enacted, they cleared the way for successive Indian Law Commissions to overhaul the Indian legal system with a series of reforms that limited religious laws to a small range of domestic and ritual matters.[31]

After a similar report on the Ottoman legal conundrum, Parliament passed the Foreign Jurisdiction Act of 1843, which spurred the development of a global network of British consular courts that eventually extended across large areas of the non-Western world.[32] The act specified that the legal authority that the Crown exercised in foreign jurisdictions such as the Ottoman territories had the same force "as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory."[33] According to any normal logic, the British in Ottoman territories administered a form of personal law to their own subjects. However, defining British jurisdiction as a form of personal law would have entailed acknowledging that consuls acted in part as "delegates of the Porte," an overlapping sovereignty that the British found unacceptable.[34] The

29. Indian Law Commissioners to Governor General, October 31, 1840, Indian Legislative Consultations, 11 January 1841, no. 16, 13, India Office Records [hereafter IOR]/P/207/14.

30. Minute by Charles Hay Cameron, August 1, 1845, Indian Legislative Consultations, August 2, 1845, no. 35, IOR/P/207/36.

31. Julia Stephens, "Governing Islam: Law and Religion in Colonial India" (PhD diss., Harvard University, 2013).

32. Turan Kayaoglu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire, and China* (Cambridge: Cambridge University Press, 2010).

33. *Statutes of the Realm*, 6 & 7 Vict., c. 94, para. 1.

34. James R. Hope, "Report on British Jurisdiction in Foreign States," in *Law Officers' Opinions to the Foreign Office, 1793–1860*, vol. 89, (ed. Clive Parry) (Westmead, England: Gregg International Publishers, 1970), 241.

Foreign Jurisdiction Act, therefore, instead translated extraterritorial jurisdiction into the language of territoriality to construct a singular chain of authority between Britain and its overseas courts.

The Uncertain Legal Afterlives of Imperial Migrants

Interventions such as the Lex Loci Report and Foreign Jurisdiction Act paved the way for Britain to implement wide-ranging legal reforms across its formal and informal empires in the middle decades of the nineteenth century. In theory, these reforms reduced uncertainties about where, how, and according to which laws cases would be decided, by putting in place increasingly formalized and centralized judicial systems.[35] In practice, however, significant areas of ambiguity remained, creating uncertainties that became particularly apparent when imperial subjects traveled across jurisdictions. When Iqbal al-Daulah and Taj Mahal died leaving property in Iraq and India and relatives and friends spread between the two, it was unclear whether their scattered assets fell under the jurisdiction of British consular courts, Ottoman authorities, or Indian colonial courts. In theory, all the relevant courts would administer the estates according to Islamic law. However, the bitter disputes that ensued over where the cases should be adjudicated revealed the considerable differences in how Islamic law was interpreted in different jurisdictions. Adding another layer of complexity, political interventions by the government significantly influenced where the cases were decided, complicating any easy division between executive and judicial authorities. Underlining the unpredictability of imperial justice, the dispute over Taj Mahal's inheritance was decided by a court in Lucknow while Iqbal al-Daulah's relatives and executors reached a settlement in the Supreme Consular Court in Constantinople. Although the Awadh inheritance cases traversed an unusual number of different jurisdictional boundaries, the rich records these legal travels left in their wake provide insight into how uncertainty more generally shaped colonial legal cultures.

Soon after the British annexation of Awadh and the Indian Rebellion of 1857, Taj Mahal fled both her personal difficulties and political turmoil in Lucknow, traveling to Karbala with her second husband Kalb Hussain. After the death of her first husband the Nawab in 1837, Taj Mahal was increasingly shadowed by speculation that she had given birth to an

35. Rachel Sturman, *The Government of Social Life in Colonial India: Liberalism, Religious Law, and Women's Rights* (Cambridge: Cambridge University Press, 2012), 16–17; and Kayaoglu, *Legal Imperialism*, 124.

illegitimate child. During the legal dispute over her estate, some of Taj Mahal's relatives claimed that this child was the lawful offspring of a secret marriage with Kalb Hussain, which she had kept hidden from the Nawab's family because they disapproved of her remarrying.[36] When Taj Mahal died in July 1875, she left behind a large estate consisting of her pension, jewelry, and household goods in Baghdad, properties in Kanpur and Lucknow, and a government promissory note deposited in Bombay.[37] She also left behind unresolved questions about her marriages, and in the years after her death individuals claiming to be her brother, nephews, granddaughter, and wife of her deceased husband made claims against the estate in Baghdad, Lucknow, Calcutta, and Bombay.

In February 1876, the British consul in Baghdad declared Taj Mahal's brother Ramzan Ali Khan to be her rightful heir. After interviewing just three witnesses, he awarded the entire estate to Ramzan Ali on the grounds that he was the nearest male relative.[38] The consul claimed jurisdiction over the estate on the grounds that Taj Mahal was a British subject living in Iraq, and, therefore, subject to the consul's extraterritorial jurisdiction. In contrast, Indian officials wanted the case to be decided in India, claiming that the Indian courts were better versed in the relevant religious laws. The Foreign Department of the Government of India complained that the consul was "potter[ing] about the case in a bungling sort of way," and speculated that he did not understand the distinction between Sunni and Shia laws of inheritance, according to which Taj Mahal's granddaughter Kulsumnissa, rather than her brother, was entitled to the estate.[39] Because both the consular and Indian courts decided inheritance cases according to personal laws, which depended upon the litigants' religious identity rather than their territorial location, theoretically, the outcome in both courts should have been the same. However, as the dispute over jurisdiction made apparent, in practice, the distinction between personal and territorial jurisdiction was not so clear. Courts in different parts of the British Empire, and even individual judges, interpreted religious laws in varied ways, and, therefore, the location of a trial could be decisive.[40] While in Taj Mahal's case

36. In the Court of the District Judge, Lucknow, Taj Mahal's Pension, in NAI/Foreign/A General G/August 1883/Nos. 50–57.

37. Petition of Moulvie Syud Mehndee Hossein to the Governor-General of India, 4–5, in NAI/Foreign/General A/June 1877/Nos. 17–114; and Exhibit C in the High Court of Indicature at Fort William in Bengal, 8, in NAI/Foreign/General A/October 1879/Nos. 12–24.

38. At the Court of the Consul-General and Political Agent, Baghdad, 32–4, in NAI/Foreign/General A/June 1877/Nos. 17–114.

39. Keep With (hereafter K. W.) No. 2, 10, in NAI/Foreign/General A/June 1877/Nos. 17–114.

40. Mitra Sharafi, "The Marital Patchwork of Colonial South Asia: Forum Shopping from Britain to Baroda," *Law and History Review* 28 (2010): 979–1009.

officials in India blamed these diverging interpretations on the consul's incompetence, conflicting rulings were common within India as well. In theory, colonial courts administered stable bodies of religious tradition in cases that came under the jurisdiction of personal law. During the course of the nineteenth century, however, colonial courts continually grappled with differing interpretations of religious laws. They also struggled with increasing awareness of local and sectarian customs that deviated from orthodox Sunni norms, and courts in different parts of India and in the wider British Empire recognized these alternative practices to varying extents.[41] Far from delivering the certainty that reformers such as Mill and Macaulay promised, the British administration of religious personal laws fueled ongoing uncertainty.

In the years following Taj Mahal's death, these uncertainties encouraged her relatives to pursue their competing claims in different jurisdictions. While Ramzan Ali brought his case in Baghdad, Kulsumnissa's relatives pursued her claims in Lucknow. Mehdi Hussain, who claimed to be Kulsumnissa's uncle and stepfather, was granted guardianship and the power to administer Kulsumnissa's property in September 1875.[42] When he attempted to collect Taj Mahal's pension on Kulsumnissa's behalf, however, Ramzan Ali's representatives in Lucknow lodged a counter claim, and the dispute was referred to the Lucknow Civil Court. While Ramzan Ali disputed the court's jurisdiction over the case, the judge found that Taj Mahal had never officially changed her place of domicile, and that therefore her estate fell under Indian jurisdiction.[43] Complicating matters further, another woman claiming to be Kalb Hussain's first wife disputed Taj Mahal's claim to his estate, and instituted a suit against Kulsumnissa in the Calcutta High Court. She argued that Taj Mahal's marriage with Kalb Hussain was invalid because the Nawab's widows were forbidden to remarry.[44] Eventually the former Nawab himself, also based in Calcutta, wrote to the government to claim Taj Mahal's pension.[45]

41. Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam since 1850* (New York: Routledge, 2000), 139–53.

42. Judgment, 41, in NAI/Foreign/General A/June 1877/Nos. 17–114. Mehdi Hussain married Kulsumnissa's mother after his brother, her first husband and the father of Kulsumnissa, passed away.

43. In the Court of the Civil Judge of Lucknow, 51–53; No. 250 of Appeal Civil Court, 66–68, in NAI/Foreign/General A/June 1877/Nos. 17–114.

44. Suit on the Ordinary Original Civil Side of the High Court of Judicature at Fort William in Bengal, 3–5, in NAI/Foreign/General A/October 1879/Nos. 12–24.

45. From Agent, Governor-General with the King of Oudh to Secretary to Government of India, Foreign Department, May 8, 1877, 62–63, in NAI/Foreign/General A/June 1877/Nos. 17–114.

As her legal battles dragged on, Kulsumnissa amassed a staggering pile of debt. Given the uncertainty of her claim to the estate, she was forced to pay annual interest rates of 24%.[46] Whereas Mehdi Hussain initially pursued Kulsumnissa's claim through the Indian courts, after arriving in Iraq he pressed for the case to be settled by the consular courts, frustrated by the Indian government's delay. In a memorandum to the government, his legal counsel insisted that Kulsumnissa "is certainly not resident within the limits of the jurisdiction of any Indian Court of Justice. . .She is simply a creditor, having claim against the Indian revenues."[47] The government of India, however, had far greater political power than a typical debtor, and wanted to ensure that it was not held liable for multiple claims on the estate in different jurisdictions. It therefore passed special legislation in 1881 that tasked the District Court of Lucknow with determining Taj Mahal's legal heir, and indemnified the government from any obligation to pay other claimants.[48] In January 1883, the District Court declared Kulsumnissa the heir.[49]

A few years later, Iqbal al-Daulah died in Ottoman Iraq, provoking another flurry of legal activity. Outliving his wife and children, Iqbal al-Daulah had deposited a will with the British political resident in Baghdad in the late 1840s, and asked him to serve as its executor. When the resident opened Iqbal al-Daulah's will after his death, he found an elaborate Persian document. As the resident noted: "A vein of eccentricity certainly runs through the Will. To the last the author of it considered himself a 'Royalty,' and parts of it read as if he had lost sight of the essential difference between Turkish Arabia at the present time and Lucknow in the palmiest days of its Nawab Vazirs."[50] In his will, Iqbal al-Daulah dedicated his property in Iraq to the upkeep of his tomb. Going into exquisite detail about the decorations he wanted at the tomb, Iqbal al-Daulah declared that, "From the fittings of my tomb let it appear as if I were not dead but living, and only gone to sleep."[51] He left his property in India for the maintenance of the tombs of his parents, with any remaining amount going to his nephews in India. Iqbal al-Daulah felt he was being more than generous,

46. Opinion, in "Regarding the Claim of Kulsooman Nisa Begam. . .," 1875–1883, Uttar Pradesh State Archives, Miscellaneous Papers, List No. 4, Sl. No. 1, Packet No. 1, Boxes Nos. 1–3, 713.

47. Ibid., 707.

48. Taj Mahal's Pension Act, in *The Legislative Acts of the Governor General of India in Council of 1881* (Calcutta: Thacker, Spink and Co., 1882), 1–6.

49. In the Court of the District Judge, Lucknow, Taj Mahal's Pension.

50. From Colonel W. Tweedie to Secretary to the Government of India, Foreign Department, January 6, 1888, 3, in NAI/Foreign/Internal A/June 1888/Nos. 216–40.

51. Translation of Will of late Nawab Sir Ikbal-ud-Daula, 18.

yet he clearly anticipated that his relatives in India might not agree, and warned that if they attempted to claim his Iraqi estate, the resident should "drive them like dogs from door."[52]

On opening the will, the resident recognized that it would cause him a host of headaches. He wrote to his superiors in Constantinople that the will "can hardly fail to give offence to Ottoman Government, to more than one large community and to individuals."[53] Iqbal al-Daulah's friends and servants, whom he had named as co-executors, were also less than enthused. Two of them informed the resident that they were disinclined "to risk their money in setting up litigation."[54] The concerns of the resident and co-executors were well founded; in August 1889, members of Iqbal al-Daulah's family instituted proceedings in Calcutta to claim the estate.[55] Meanwhile, the *wali* of Bagdad, the Ottoman provincial governor, demanded that the resident hand over Iqbal al-Daulah's landed property, claiming territorial jurisdiction over the immoveable estate. The *wali* insisted that under Ottoman law the estate devolved to the government, because no legitimate heirs had applied to the Ottomans courts, and the will was not drawn up in accordance with the *sharia,* which only allowed one third of an estate to be willed away.[56] In response, the legal counsel employed by Iqbal al-Daulah's executors insisted that although the estate should be administered according to the *sharia,* "that law has to be administered and interpreted by the British and not by the Native Court." He further argued that although Iqbal al-Daulah's immoveable property was subject to Ottoman law, it was the consular courts that should administer that law, in essence subordinating Ottoman territorial claims to British extraterritorial jurisdiction.[57]

Ultimately, the dispute over Iqbal al-Daulah's estate was resolved relatively quickly because the parties were anxious to bring the case to a conclusion and avoid further Ottoman involvement. Although the judge of the Supreme Consular Court in Constantinople believed that the case fell within his jurisdiction, he wanted to avoid a situation in which "two

52. Ibid., 22.

53. From Colonel W. Tweedie to Consul-General and Judge, Constantinople, January 9, 1887, 2, in NAI/Foreign/Internal A/June1888/Nos. 216–40.

54. Extract from the Diary of the Political Resident Turkish Arabia, October 19, 1889, 55, in NAI/Foreign/Internal A/March 1890/Nos. 58–92.

55. In the High Court of Judicature at Fort William in Bengal, 57–59, in NAI/Foreign/Internal A/March 1890/Nos. 58–92.

56. From the *Wali* of Bagdad to Consul-General Bagdad, October 22, 1889, 55–56, in NAI/Foreign/Internal A/March 1890/Nos. 58–92.

57. From E. Pears to Consul-General and Judge, Constantinople, January 16, 1890, 1–2, in NAI/Foreign/Internal A/April 1890/Nos. 81–87.

English Courts, with the same Court for Appeal, would be trying the same case," fearing that the result would be "a ruinous expence to the estate."[58] The judge felt that he could not formally renounce jurisdiction over the case, but agreed to postpone proceedings until the case was decided in Calcutta.[59] Ultimately, however, Iqbal al-Daulah's relatives and executors decided that the case could be more quickly settled in the consular courts. Referencing their concern that the Ottomans might seize the estate, or that the relatives "being elderly people might die before the litigation was concluded," the parties signed a settlement in August 1891.[60] Two thirds of the estate went to Iqbal al-Daulah's relatives, and one third was dedicated to his tomb. Iqbal al-Daulah would probably have been disappointed with the result.

Mobile subjects such as the Awadh royals, therefore, revealed ambiguities in the boundary between territorial and personal law, and ongoing contests between local and British officials about the scope of extraterritorial jurisdiction. The cases also showed how colonial officials, while in theory praising the benefits of legal certainty, in practice often interpreted the "rule of law" in flexible ways to accommodate shifting imperial needs. Although exceptional in the number of different causes that fueled uncertainty, the Awadh cases thus reflected more pervasive sources of ambiguity in colonial law. Parties to the disputes responded to this uncertainty by pursuing claims through multiple legal and extralegal avenues. In many colonial legal records, which focus on final decisions and official outcomes, such efforts to navigate shifting legal terrain remain frustratingly obscured from view. However, because officials were intensely preoccupied with the outcome in the Awadh disputes, the cases offer a tantalizing glimpse into how colonial litigants and officials managed unpredictable legal outcomes.

Uncertain about what laws the courts would use to decide the cases, the Awadh litigants supported their claims with citations to multiple sources of law. For example, in the dispute over the guardianship of Kulsumnissa, Mehdi Hussain argued that Taj Mahal's brother Ramzan Ali, as a rival claimant to the estate, "cannot be deemed worthy to be the guardian of the minor, either according to the Mahomedan law, or any other law, or rules of justice."[61] Parties to the disputes also worked through both legal and political channels, simultaneously defending their cases in courts

58. From Consul-General and Judge, Constantinople to Foreign Office, February 20, 1890, 2, in NAI/Foreign/Internal A/August 1890/Nos. 96–116.

59. Ibid., 2–3.

60. In Her Britannic Majesty's Supreme Consular Court at Constantinople, in Probate in the Matter of the Estate of the Late Nawab Sir Iqbal-ul-Dowlah, 5, in NAI/Foreign Department/Internal A/June 1892/Nos. 20–58.

61. Petition of Moulvie Syud Mehndee Hossein, 4.

and petitioning colonial officials. Mehdi Hussain flooded officials in Iraq and India with requests on Kulsumnissa's behalf, leading one official to describe him as "a perfect master of petition-writing and of wire-pulling."[62] The resident in Baghdad complained that Iqbal al-Daulah was attempting to subvert normal legal channels by directly involving British officials in the administration of his property. The resident dismissively declared that Iqbal al-Daulah was "Utterly ignorant of the forms of English law, and relying confidently upon the favour and protection of the English Government, but unable to discriminate the powers and obligations of the one from those of the other. . ."[63] Although the resident scoffed at Iqbal al-Daulah's conflation of executive and judicial authority, there was a considerable amount of truth to his understanding. Although British officials largely left the administration of his estate to the courts, they interceded in Taj Mahal's case, in which they had a greater vested interest. Not only did the Indian government pass the 1881 act, officials considered replacing the district judge when they thought that he was taking too long to decide the case.[64]

Although litigants, unlike officials, did not have the power to rewrite laws, they also pursued extrajudicial strategies. Hints of informal mechanisms for influencing cases seep through the cracks of the official archive. Although there is little indication of how a settlement was reached in Iqbal al-Daulah's case, there are suggestions that interactions between Taj Mahal's relatives outside of court influenced the course of events. When Mehdi Hussain arrived in Iraq with a certificate of guardianship for Kulsumnissa, a disturbance ensued between him and Ramzan Ali. Mehdi Hussain enlisted the help of Ramzan Ali's nephew in confronting his uncle, and the resident reported that, "Subsequently Ramzan Ali Khan made a complaint against his nephew for his conduct, but this dispute was settled among the parties concerned."[65] As these oblique references suggest, parties to legal disputes exercised forms of social coercion that were often as powerful as those of the state.

The uncertainty surrounding the outcome in legal cases also encouraged third parties to "speculate" on legal cases, buying shares in legal cases in exchange for financial resources to fund legal fees. Parties in both Taj

62. K.W. No. 1, 2, in NAI/Foreign/A General G/January 1883/Nos. 1–11.

63. From Colonel W. Tweedie to Secretary to the Government of India, Foreign Department, January 10, 1888, 2, in NAI/Foreign Department/Internal A/June 1888/Nos. 216–40.

64. K.W. No. 2, 3, in NAI/Foreign/A General G/January 1883/Nos. 1–11.

65. From Political Resident in Turkish Arabia to Officiating Secretary to the Government of India, Foreign Department, August 7, 1876, 11, in NAI/Foreign/General A/June 1877/Nos 17–114.

Mahal and Iqbal al-Daulah's case sold all or part of their claims to third parties.[66] Common-law doctrines prohibiting champerty, or the participation of a third party in a lawsuit in exchange for a financial share in the final award, made it more difficult to sell legal claims in England. Indian courts, however, forbid the sale of shares in litigation only when they were extortionate or otherwise morally suspect.[67] This method of financing legal cases in colonial India deserves further study and may help provide a more economic explanation for the cultural stereotype of the "litigious Indian."

Although Iqbal al-Daulah and Taj Mahal's cases were certainly exceptional, the strategies that their relatives used to manage uncertainty were not unique. Historians of colonial law working in multiple locations have documented how litigants strategically maneuvered between different legal forums in order to maximize their chances of success, a strategy that is often described as "forum shopping."[68] Although evidence of extralegal networks and coercion are often difficult to locate in official legal records, contemporary ethnographic research has richly documented the dynamic relationship between formal and informal spheres of legal adjudication.[69] One scholar has compared these strategies of managing uncertain outcomes to gambling in a "legal lottery."[70] This metaphor is particularly useful because it underlies the power imbalances involved. Litigants worked to maximize their chances of winning cases in an environment weighted against them. Their own chances of profiting were often relatively small, given that the cost of pursing a legal dispute could significantly cut into any financial benefits. However, groups with greater access to political, social, or financial capital were able to hedge their bets by pursuing multiple

66. In the Court of the District Judge, Lucknow, Taj Mahal's Pension, 26; Note, 41, in NAI/Foreign/Internal A/June 1892/Nos. 20–58.

67. For the Privy Council decision upholding this interpretation, see *Ram Coomar Coondoo and Another v. Chunder Canto Mookerjee*, The Law Reports. Indian Appeals: Being Cases in the Privy Council on Appeal 4 East Indies, 23 (1876).

68. Sharafi, "The Marital Patchwork of Colonial South Asia;" and Paolo Sartori and Ido Shahar, "Legal Pluralism in Muslim-Majority Colonies: Mapping the Terrain," *Journal of the Economic and Social History of the Orient* 55 (2012): 653.

69. For a rare historical account of these interactions, see Niels Brimnes, "Beyond Colonial Law: Indigenous Litigation and the Contestation of Property in the Mayor's Court in Late Eighteenth-Century Madras," *Modern Asian Studies* 37 (2003): 513–50. Scholars working on contemporary legal culture have studied this topic in more depth. Erin Moore, *Gender, Law, and Resistance in India* (Tucson: University of Arizona Press, 1998); and Gopika Solanki, *Adjudication in Religious Family Laws: Cultural Accommodation, Legal Pluralism, and Gender Equality in India* (Cambridge: Cambridge University Press, 2011).

70. Sharafi, "The Marital Patchwork of Colonial South Asia," 980, 982, 1009.

legal strategies and outlasting their opponents in court. Meanwhile, the government could game the system, mitigating unpredictable outcomes by writing new laws and pushing courts in certain directions.

Entangled Histories of Certainty and Uncertainty

Iqbal al-Daulah and Taj Mahal's cases, therefore, provide a double vision of colonial law. They lead us through a landscape in which the jurisdictional expansion of British law was fueled by the promised benefits of delivering certain justice, but then draw us deep into legal negotiations that were governed more by pervasive dynamics of uncertainty. In the process, the cases bring into a common frame of analysis two approaches to colonial law that are often developed in isolation, or, at times, in opposition to each other. The first has focused on how law produced discourses on imperial justice and sovereignty that legitimated colonial rule. These studies have used legal treatises, legislation, and historic trials to trace the genealogy of legal concepts and their connection to colonial governance. This literature explores the intimate ties between colonial knowledge and imperial domination, and thus emphasizes how discourses such as legal certainty empowered the colonial state.[71] The second approach, which has often prioritized studying legal practice as opposed to theory, has been more attuned to dynamics of uncertainty. Scholars embracing this approach have emphasized the limits of colonial knowledge, and, in turn, the contingent nature of colonial power. Drawing in particular on the work of Lauren Benton, historians have emphasized the complexity of colonial legal cultures and the role that indigenous agents played in their formation.[72] In practice, many scholars combine elements of both of these approaches, as this article has attempted. However, despite this productive cross-fertilization, historians favoring one approach over the other have often presented diverging pictures of colonialism.[73] The first

71. Some exemplary examples of this approach include: Nasser Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (Ann Arbor: University of Michigan Press, 2003); and Mithi Mukherjee, *India in the Shadows of Empire: a Legal and Political History, 1774–1950* (New Delhi: Oxford University Press, 2010).

72. Some excellent examples of this approach appeared in the special forum "Maneuvering the Personal Law System in Colonial India," *Law and History Review* 28 (2010): 973–1071. For another noteworthy example, see Nandini Chatterjee, "Muslim or Christian? Family Quarrels and Religious Diagnosis in a Colonial Court," *The American Historical Review* 117 (2012): 1101–22.

73. For an account underlining differences between these two approaches, see Kunal M. Parker, "The Historiography of Difference," *Law and History Review* 23 (2005): 685–95;

approach has emphasized the constraining force of legal subjectivities and their role in the exercise of colonial domination. In contrast, the second approach has often portrayed colonial law as a more open field of negotiation.

The Awadh inheritance cases encourage us to think about how these two seemingly contradictory images of colonial law might be brought into greater dialogue through histories that attend to the roles of both certainty and uncertainty, and, most critically, the relationship between them. The cases demonstrate how uncertainty and certainty were mutually generative when one of the key purposes of colonial law was to impose order on populations that were widely believed to be both diverse and disorderly. Cases in which the law was ambiguous and the subject of litigation was unclear resulted in lengthy trials and judicial appeals, providing law with some of its most productive material. When courts failed to deliver clear and consistent outcomes, legislatures often stepped in. Although courts and legislatures claimed to replace confusion with clarity, in practice, this promise was often an ever-receding goal rather than a definitive accomplishment. Therefore, rather than undermining the power of the law, the persistence of uncertainty kept the wheels of justice spinning. For example, in Taj Mahal's case, officials justified legislative intervention because of "the existence of grave doubts."[74] However, only a few years after the 1881 act and the conclusion of Taj Mahal's case, officials expressed concerns that the act had raised new questions about whether other Awadh pensions could be litigated. The normal procedure was for officials, rather than the courts, to decide who were the rightful heirs to the pensions. Officials were, therefore, concerned that by involving the courts in Taj Mahal's case, they had exposed the government to the threat of "endless litigation and great expense."[75] The government passed additional legislation in 1886, clarifying that the Awadh pensions could only be litigated with the permission of the administration. However, far from eliminating uncertainty, the Awadh pensions, which the Indian government continues to pay out today, continued to spawn ongoing legislative, judicial, and bureaucratic interventions.[76] Straddling different

and Elizabeth Kolsky, "A Note on the Study of Indian Legal History," *Law and History Review* 23 (2005): 703–6.

74. K.W., 2, in NAI/Legislative A/October 1886/Nos. 153–88

75. From Wasika Officer of Lucknow to Secretary to the Government, N.W. Provinces and Oudh, Financial Department, December 16, 1884, 66, in NAI/Legislative A/October 1886/Nos. 153–88.

76. The pensions are still administered through the Wasika Office located in Lucknow. I thank the officers for speaking with me in January 2013.

systems of past and present sovereignty, the Awadh pensions have provided seemingly limitless fuel for legal activity.

Subjects, such as the Awadh royal family, who traversed legal boundaries, whether religious, political, or territorial, thus often facilitated the law's expansion by highlighting new areas of uncertainty that the law could bring within its grasp. These subjects, often unwittingly, fueled the expansion of colonial bureaucracies that promised to deliver more predictable and precise legal outcomes. Looking back to earlier discussions of legal reform in the 1840s, border-crossing subjects played a critical role in fueling efforts to "territorialize" British law in India and the Ottoman Empire. The initial impetus for the Lex Loci Report was a petition submitted by a group of Indian Christians and Armenians complaining of their uncertain civil status and their subjection to Islamic criminal law.[77] Indian converts to Christianity crossed religious and racial boundaries, whereas Armenians, with their global trading networks, occupied an uneasy position between Asian subjects and European colonists. Anxieties about anomalous minorities fueled efforts to clarify ambiguities surrounding the relationship between colonial law and Indian religious laws. In a similar fashion, concern about the legal position of Maltese and Ionian migrants in Ottoman territories helped spark debates that eventually led to the passage of the Foreign Jurisdiction Act of 1843. A series of sensational criminal cases involving these often lower-class migrants raised concerns among both British and Ottoman officials, but as subjects of a British colony, in the case of Malta, and of a British protectorate, in the case of the Ionian Islands, it was unclear whether they fell under Ottoman or British jurisdiction.[78] The practical issue of where migrant subjects should be put on trial thus opened up much broader questions about the relationship between territorial, colonial, and extraterritorial jurisdictions. In the process, they spurred efforts to clarify these areas of ambiguity through reforms that expanded the reach of British legal powers, but rarely succeeded in eliminating legal uncertainties.

Emphasizing the unpredictable nature of legal outcomes challenges both top-down models of colonial domination and bottom-up assertions of native agency. Colonial law was not a one-sided imposition of power; courts depended upon subjects bringing cases. Legislation and judicial rulings often had different effects than those officials or judges had intended, as in Taj Mahal's case, where legislation that was supposed to end litigation in one case opened up the possibility of new litigation in other cases.

77. Indian Law Commissioners to Governor General, October 31, 1840, 1.

78. Richard Pennell, "The Origins of the Foreign Jurisdiction Act and the Extension of British Sovereignty," *Historical Research* 83 (2010): 465–85.

On the other hand, law rarely provided straightforward routes for colonial subjects to assert independent agency. Actors who appeared in legal cases were the product of complex hierarchies of power, frustrating any attempt to isolate autonomous agents from broader networks of colonial power. The ability of litigants to enter the courts depended upon access to social and financial capital. Unpredictable and often lengthy legal proceedings meant that uneven access to resources might easily determine the outcome in a case, depending upon which party could hold out the longest. Third parties, whether lawyers or financiers, may have been the actual beneficiaries in many cases, and, therefore, may have been the driving force behind litigation. And finally, by engaging colonial courts, non-European subjects often unwittingly contributed to the expanding power of colonial legal systems. The concept of agency, if framed in terms of autonomy and a link between conscious intentions and outcomes, therefore seems poorly suited to understanding the way in which the law operated.[79]

Although the unpredictable nature of legal outcomes often frustrated individual intentions, including those of colonial officials, it nonetheless facilitated the expansion of imperial power more broadly. Legal discourses promising certainty helped justify European expansion, whereas courts brought colonial power into the everyday lives of colonized subjects. The participatory nature of colonial law facilitated penetrating forms of governance, whereas the ever-receding promise of certainty contributed to a constantly expanding system of control. These characteristics made colonial law a particularly dynamic and adaptable mode of domination. Although historians have become accustomed to thinking about knowledge as an instrument of power, fine-grained analysis of colonial law pushes us to think more carefully about how uncertainty also facilitated imperial expansion.

If focusing on the relationship between certainty and uncertainty pushes historians to rethink traditional models of colonial power, it also draws attention to the ways in which our own search for certainty in legal archives is, at best, an imperfect pursuit. Although women and other marginalized groups appear with tantalizing frequency in court cases, on close inspection, this picture of subaltern agency often fractures. Although we do not know whether Mehdi Hussain was a benevolent stepfather or a conniving patriarch, there is little doubt that he heavily mediated Kulsumnissa's interactions with the courts. Seemingly captivating narratives of legal agency on closer inspection often unravel into histories and arguments constructed

79. Jon E. Wilson, "Subjects and Agents in the History of Imperialism and Resistance," in *Powers of the Secular Modern: Talal Asad and His Interlocutors*, ed. David Scott and Charles Hirschkind (Stanford: Stanford University Press, 2006), 180–205.

by other parties. Historians of colonial law, as much as colonial litigants and officials, therefore need to creatively engage with this uncertainty, seeing it as the very essence of the law, rather than its undoing.

Conclusion: From Macro to Micro Histories and Back Again

Thinking about how certainty and uncertainty were mutually constitutive brings the double vision of colonial law that emerges from the Awadh inheritances cases into a more unitary frame. In a similar fashion, as micro-histories of individuals and legal cases that unfolded across the geographically dispersed space of Britain's Indian Ocean Empire, the Awadh disputes bring together divergent scales of analysis. Although perhaps counterintuitive, such macro–micro histories have gained growing traction in recent years, as historians have expanded the geographical scope of historical inquiry, whether to imperial, transnational, or global scales. Tracing the histories of a mobile individual, commodity, or text has provided circumscribed paths through transnational history's seemingly infinitive archive, and packaged global spaces into human-sized narratives. These macro–micro histories have considerably enriched our understanding of the complexity of global phenomena, adding rich texture to what can otherwise appear as abstract generalizations about large swaths of space and diverse populations.[80] For perhaps not dissimilar reasons, legal historians have long been attracted to micro-history as a method that brings human depth to histories of law that can, particularly to nonspecialists, often seem dry and overly abstract. Micro-histories of legal cases, not unlike micro-global histories, also allow historians to move between the particular and the general, tying together the different scales on which law operates. During a moment in which historians are working at increasingly diverse scales, this approach seems particularly promising, but perhaps will also demand increasingly self-conscious reflection on its own methodological eclecticism. In the field of imperial history, which often intersects with the expanding field of global history, histories that explicitly engage with different scales of analysis offer further advantages. Contextualizing

80. Bernhard Struck, Kate Ferris, and Jacques Revel, "Introduction: Space and Scale in Transnational History," *The International History Review* 33 (2011): 577; Emma Rothschild, *The Inner Life of Empires: An Eighteenth-Century History* (Princeton: Princeton University Press, 2011), 7, 278; Francesca Trivellato, "Is There a Future for Italian Microhistory in the Age of Global History?" *California Italian Studies* 2 (2011); and Sebouh David Aslanian, Joyce E. Chaplin, Ann McGrath, and Kristin Mann, "AHR Conversation How Size Matters: The Question of Scale in History," *The American Historical Review* 118 (2013): 1438–58.

in-depth studies of individual cases in broader patterns of imperial power avoids the pitfalls of decontextualized narratives of individual agency. For historians of colonial law, this approach also promises to connect rich existing bodies of scholarship on law in specific colonial contexts to a broader awareness of how law operated at imperial scales, as precedents and legal models circulated across multiple regional contexts.

In moving between a birds-eye overview of the legal landscape through which the Awadh cases moved, to a zoomed-in study of the detailed records of the cases, this article has offered one possible way of self-consciously mixing different scales. In doing so, the article suggests that mixing macro and micro perspectives, and in the process blurring the distinction between the two, has the added advantage of bringing into dialogue other seemingly desperate trajectories of historical analysis. Although the article has explored this overlap more deeply in terms of the relationship between certainty and uncertainty, it also suggests the possibility of more interconnected histories of legal theory and practice, agency and structure, and global and local networks. Rather than pitting micro-histories against macro-arguments, these macro–micro histories explore connections between seemingly divergent phenomena, such as the role native litigants played in the expansion of colonial legal institutions. In doing so, the goal is not a seamless integration of different scales and perspectives, but a provocative invitation to think about unexpected links: a process that the travels of Iqbal al-Daulah, Taj Mahal Begam, and their disputed estates, help facilitate.