MESSICK Brinkley. — *Shari'a Scripts: A Historical Anthropology*

Ghislaine Lydon

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REFERENCES

MESSICK Brinkley. — *Shari‘a Scripts: A Historical Anthropology*. New York, Columbia University Press, 2019, 519 p., bibl., index.

- 1 Brinkley Messick’s long-awaited book is the fruit of several decades of reflection on the practice of Islamic law, following his 1993 classic *The Calligraphic State*. It is set in the author’s research terrain of predilection: Yemen’s central highlands in and around the city of Ibb. This predominantly agrarian world is rather distinct, as it never experienced colonial rule directly, neither under the Ottomans nor at the hands of subsequent foreign powers. Another exceptionalism is the nature of the theocratic state that governed the region: the Zaydī Imamate, with its thousand-year-long tradition of leaders who linked their genealogies to ‘Alī, Prophet Muḥammad’s son-in-law, until the ascendance of Imam al-Shawkānī (d. 1834). Messick describes it as a true Imamate in which the imam was the ultimate interpreter and enforcer of the *shari‘a*. This is in contrast to most “fictional” imamates under temporal state authority, where cohorts of Muslim jurists enforced the law horizontally, “in the absence of *shari‘a*-based governance” (p. 14). For these reasons, the region affords perspective into a unique legal landscape following both the Zaydī and Shāfi‘ī legal schools, which Messick sees as a “surviving remnant of the classical *shari‘a*” (p. 18). While the main chronological focus of this study is twentieth-century Yemen before the 1962 Revolution, several foundational texts reviewed are centuries old, and the documentary evidence extends into the late twentieth century.
- 2 *Shari‘a Scripts* deepens Messick’s innovative methodological contribution to historical anthropology, namely his exploration of the production and performance of textuality, or what he terms “the anthropologist as reader.” By probing the written record,

Messick sets himself apart from the work of legal anthropologists of Islam, such as Lawrence Rosen, who derive their information solely from ritual and oral sources. Messick's textual evidence, in both manuscript form and print, is supplemented with ethnographical data drawn from observations in the *shari'a* spaces of Ibb during his formative fieldwork in the 1980s. This study takes a two-pronged approach, contrasting the nature and modalities of formal law books with legal documents produced locally. He treats Islamic law as a discursive tradition, guided by the scholarship of Talal Asad.¹ He also finds inspiration in the work of Mikhail Bakhtin,² and particularly his concept of "paper language," which speaks to how legal textuality is expressed in a dialogical mode that reveals as much as it alters the acts and words expressed in writing (pp. 50-52).

- 3 This book consists of a comprehensive introduction and ten chapters organized in two sections. Part I, "The Library," focuses on the "textual architecture of historical *shari'a*" (p. 20), presenting key manuals of Zaydī *fiqh* and commentaries thereof as technical, doctrinal, context-free and extemporal legal references. This section offers a profound reading of the compositional and intertextual aesthetics of the legal written form or what Messick calls—invoking Pierre Bourdieu—the "textual habitus." In Part II "The Archive," Messick moves from the legal infrastructure to the local determinants of legal practice, with a micro-historical analysis of documentary evidence. Here he cross-examines the sources, from court rulings to notarial instruments, as textual performances that are dated, personalized, and locally inscribed. A central question the book grapples with is the dialectical interplay between the Library and the Archive, or how to ascertain the discursive resonance of formal texts in the everyday practice of *shari'a*. By putting formal reference manuals in conversation with "routine documents," typically studied separately, this work offers a new, holistic understanding of Islamic law in motion, advancing the Western study of Islamic law light years beyond the Weberian construct of *kadijustiz*.
- 4 The first chapter profiles the history of the Zaydī legal school (*mathhab*) and its doctrinal corpus, centered on the fifteenth-century *Book of Flowers* as well as several commentaries of this foundational manual. The next two chapters broaden the textual canvas with additional Zaydī legal works and their treatment of the *uṣūl al-fiqh*, or the sources and principles of Islamic jurisprudence. One of the fascinating questions discussed in Chapter 3 deals with how writing relates to speech in legal procedures (a subject Messick introduced to some extent in his first book, and which runs as a leitmotif in *Shari'a Scripts*). In particular, Messick discusses the reliance on oral testimony in *shari'a* courts for the authentication of documentary evidence, including the act of reading documents aloud by the original witnesses of contractual agreements. Chapter 4 considers legal interpretation based on two textual genres: *fatwās* penned by jurists (*muftīs*) and the authoritative interpretations or "choices" (*ikhtiyārāt*) of Zaydī imams. The last chapter of this first section, entitled "Practice with writing," returns to the question of orality, introduced in Chapter 3, about the oral-written interface and the status and legal personality of the written word in the practice of *shari'a*. Based on commentaries and *fatwā* literature, he presents opinions about the cautious reliance on writing, including the importance of certifying authorship in handwriting and the question of forgery. Also discussed is the tricky problem of authenticating old documents produced and witnessed by actors now deceased.

- 5 In the initial chapter of Part II, entitled “Intermission,” Messick pauses to reflect on the double meaning of the word “script” featured in the title of his book, as a metaphor for both the production of formal and local texts, and the performance of the law as inscribed on paper. Chapter 7 combines an analysis of the daily business and “textual dynamics” of *shari‘a* courts, based on five judgments, with a cross-reading of the official court “Instructions” issued in 1937 by Imam Yaḥya. The next chapter is a careful reading of the stylistic composition of court records, while Chapter 9 examines court etiquette and moral stipulations (*shurūt*) for the proper holding of minutes and modeling of contracts. One of the most interesting facets of this chapter is how Zaydī judges treated the question of forgery, both in its manifestation of bearing false witness and in the falsification of records. The final chapter, “Contracts,” is based in part on *shurūt* literature (namely the collection of contractual formulae by the nineteenth-century Yemeni scholar al-Iryānī), and a sample of handwritten instruments. It pays particular attention to marriage, lease and sale contracts, and, in this last instance, the real estate sale contract so prevalent in agrarian exchanges, known in Yemen as the *baṣīra*. Here again, Messick navigates between the “Library” and the “Archive,” by appreciating the distance between precept and practice expressed in the “paper language” of legal transactions.
- 6 Save for some very minor details (repetitions; the transliteration of the Arabic *ḥ* at times goes missing [ex. Aḥmad; Yaḥya]), *Shari‘a Scripts* is a work of tremendous erudition and imagination that provides a veritable roadmap for a new anthropology of Islamic law. It is bound to become required reading for scholars, students and the general public interested in understanding the inner workings of legal praxis in an authentic Muslim society.

NOTES

1. T. A SAD, *The Idea of an Anthropology of Islam*, Washington D.C., Center for Contemporary Arab Studies, Georgetown University, 1986.
2. M. BAKHTIN, *The Dialogic Imagination: Four Essays*, trans. M. Holquist, Austin, University of Texas Press, 1981.