Introduction

In 1911, Samuel Eisenstadt, a young Russian-Jewish legal scholar, published an article calling for the revival of Jewish law. Addressing his Jewish readers, Eisenstadt proclaimed:

> Look at the shores of the Arabian Sea and the rivers of India! Great and ancient peoples of the Orient are awakening from their slumber, fighting for their freedom … A new and enlightened society is emerging on the shores of Asia, and in its law and social customs, the spirit of religion is reflected in its pure oriental form. The Orient longs and yearns for the revelation of a strong and original oriental law, one that draws and nourishes itself from the source of oriental religion … To this oriental society and its peoples, whose souls are close to our souls and whose feelings are close to our feelings, we must bring our advanced law, the law of the ancient Semitic people, the first and foremost of the enlightened peoples of Western Asia … We must create an authentic Jewish society based on authentic Jewish law.[1]

This romantic passage reflects several ideas that may seem strange to modern readers, but were common among early twentieth-century Jewish intellectuals. The pan-Semitic and pan-Asian sentiments that Eisenstadt, a Zionist, expressed toward Arabs and Indians;[2] the

[1] Samuel Eisenstadt, "Le-Korot ha-Mishpat ha-'Ivri (Skirah Klalit)," *He-'Atid: Me'asef Sifruti Mada'i* 3 (1909–11): 194, 208.

[2] Racist discourse in the nineteenth and early twentieth centuries classified Jews as "Semites," in contrast to the so-called "Aryan" race, which was widely regarded as superior. Some Zionist Jews appropriated this framework to argue that Jews were historically and ethnically connected to other Asian peoples, particularly Arabs. For example, the early Zionist thinker Moshe Lilienblum wrote in 1881 that "we are strangers [in Europe], Semites [living] among Aryans, the sons of Shem among the sons of Japheth. A Palestinian

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connection between "enlightened society," "law," and "the spirit of religion,"[3] and perhaps also the depiction of Jewish law as "oriental" rather than Western.[4]

tribe from Asia in European lands." See Hanan Harif, *Anashim Ahim Anahnu: Ha-Pniyah Mizrahah ba-Hagut ha-Tsiyonit* (Jerusalem: Shazar, 2019), 18, 27, 31. For additional discussions of Pan-Semitic and Pan-Asian sentiments in early Zionism, see, e.g., Paul Mendes-Flohr, *Divided Passions: Jewish Intellectuals and the Experience of Modernity* (Detroit, MI: Wayne State University Press, 1991), 77–132; Shimon Lev, *Nehirin lanu Shevilin de-Hodu: Ha-Mifgash beyn ha-'Olam ha-Yehudi-Tsiyoni le-Hodu ve-Tarbutah 'al Rek'a Tsmihat ha-Tnu'ot ha-Leumiyot* (Tel Aviv: Gama, 2018); Rephael G. Stern and Arie M. Dubnov, "A Part of Asia or Apart from Asia? Zionist Perceptions of Asia, 1947–1956," in *Unacknowledged Kinships: Postcolonial Studies and the Historiography of Zionism*, eds. Stefan Vogt, Derek Penslar, and Arieh Saposnik (Waltham, MA: Brandeis University Press, 2023), 233, 236–42; Avi-ram Tzoreff, *Kedmah Mizrahah: R. Binyamin, du-Le'umiyut ve-Tsiyonut sheke-Neged* (Jerusalem: Shazar, 2023), 103–53, 171–81; Amit Levy, *A New Orient: From German Scholarship to Middle Eastern Studies in Israel* (Waltham, MA: Brandeis University Press, 2024); Mostafa Hussein, *Hebrew Orientalism: Jewish Engagement with Arabo-Islamic Culture in Late Ottoman and British Palestine* (Princeton, NJ: Princeton University Press, 2026). On the many parallels between European Jews and the colonized populations of European empires (and also on the different ways in which Jewish history undermines the simplistic binary categories used by many historians of colonialism), see, e.g., Ethan Katz, Lisa Moses Leff, and Maud S. Mandel, "Introduction: Engaging Colonial History and Jewish History," in *Colonialism and the Jews*, eds. Ethan Katz, Lisa Moses Leff, and Maud S. Mandel (Bloomington, IN: Indiana University Press, 2017), 1.

[3] The two normative systems that I will focus on in this book, Hindu and Jewish, as well as other systems I will mention such as Islamic law, do not easily fit into the Western categories of "law" and "religion." While these systems deal with issues that we would describe as legal, they also encompass topics that would be classified by Western observers as belonging to morality, theology, ritual, myth, history and literature. See, e.g., Hanina Ben-Menahem, "Is Talmudic Law a Religious Legal System? A Provisional Analysis," *Journal of Law and Religion* 24 (2008–09): 379; Timothy Lubin, Donald R. Davis, Jr., and Jayanth K. Krishnan, eds., "Introduction," in *Hinduism and Law: An Introduction* (Cambridge and New York: Cambridge University Press, 2010), 1, 6; Werner Menski, "Hindu Law in Modern Times: How Hindu Law Continues in Modern India," in *The Oxford History of Hinduism: Modern Hinduism*, ed. Torkel Brekke (Oxford: Oxford University Press, 2019), 244, 245, 254; Leora Batnitzky, "Between Ancestry and Belief: 'Judaism' and 'Hinduism' in the Nineteenth Century," *Modern Judaism* 41 (2021): 194; *Law as Religion, Religion as Law*, eds. David C. Flatto and Benjamin Porat (Cambridge: Cambridge University Press, 2022); Baudouin Dupret and Gianluca Parolin, "The Great Divide in Legal Discourse," in *State Law and Legal Positivism: The Global Rise of a New Paradigm*, eds. Baudouin Dupret and Jean-Louis Halpérin (Leiden: Brill, 2022), 5; Jean-Louis Halpérin, "Historical-Jurisprudential Methods," in *The Cambridge Handbook of Comparative Law*, eds. Mathias Siems and Po Jen Yap (New York: Cambridge University Press, 2024), 32, 37–8.

[4] The leading comparative law scholar of the early twentieth century, Josef Kohler, classified Jewish law (both ancient and modern) as an "oriental" legal system, similar to Hindu, Islamic, Chinese, or Japanese law, distinguishing it from Greek and Roman

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Eisenstadt published these words immediately after graduating from the Faculty of Law of the University of Bern, where he wrote a doctoral dissertation on the history of Jewish law.[5] In the following decades, which he first spent in Europe and then in Mandatory Palestine, he would work tirelessly to further his vision of a Jewish legal revival: the modernization of Jewish law in preparation for its use as the basis of the legal system of the future Jewish state. While this vision centered on what Eisenstadt defined as a non-Western legal system, it was inspired by Western legal theories, primarily the romantic–nationalist theory of the German Historical School but also, somewhat incongruously, Marxist legal theory.

Eisenstadt's utopian vision reflected a broader encounter between Western legal theories and non-Western law that occurred simultaneously in many territories during the first decades of the twentieth century. One could find this encounter in the ideas and works of several elite groups: politicians, administrators, historians writing on ancient law, and traditional religious experts.[6] This book focuses on another group: legal scholars teaching law in Western-style legal education institutions outside Europe. The book compares the ideas of these scholars in two territories that were part of the British Empire in the first half of the twentieth century: colonial India and Mandatory Palestine.

law. See Josef Kohler and Leopold Wenger, *Allgemeine Rechtsgeschichte*, Vol. 1: *Orientalisches Recht und Recht der Griechen und Römer* (Leipzig: Teubner, 1914), v–vi, 71–82. On the history of the contrast between "Aryan" and "Semitic" law, and its impact on nineteenth- and early twentieth-century comparative law scholarship, see Pier Giuseppe Monateri, "Black Gaius: A Quest for the Multicultural Origin of the Western Legal Tradition," *Hastings Law Journal* 51 (2000): 479, 490–6; Tomasz Giaro, "A Purely Western Tradition: The 100th Anniversary of the Orientalisation Debate," in *The Grand Strategy of Comparative Law: Themes, Methods, Developments*, eds. Luca Siliquini-Cinelli, Davide Gianti, and Mauro Balestrieri (New York: Routledge, 2024), 253. Of course, the fact that some non-Jewish and Jewish scholars in Europe saw the Jews (and Jewish law) as "Asian" or "Oriental" did not mean that Asians did so too. As one Israeli intellectual noted, "if Anti-Semitic Europe saw the Jews as 'Asians,' the Asians saw the Jews as completely European … not as an Asiatic nation … that is now returning to its homeland in Asia." See Efraim Broida, "Rashey Prakim 'al Hodu ve-Yisra'el," *Molad* 2(7) (October 1948): 10.

[5] See Staatsarchiv des Kantons Bern, BB 8.2.466 (Fakultätsprotokoll, 1910 06–28).

[6] See, e.g., Alexander Kaye, *The Invention of Jewish Theocracy: The Struggle for Legal Authority in Modern Israel* (New York: Oxford University Press, 2020).

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The legal scholars of India and Palestine published textbooks, monographs, and academic and non-academic articles on law.[7] In the case of India, the publications were in English, the dominant language of law and legal scholarship in India.[8] In Mandatory Palestine, the works I discuss in this book were mainly written in Hebrew (or Arabic in the case of works by Palestinian-Arab lawyers). Some of these works were practical, designed to provide lawyers with knowledge about existing legal rules. Others were theoretical, intended to give their readers more abstract knowledge about the nature of law and its development. Such works dealt with legal philosophy, legal history, the sociology of law, and comparative law, all of which fall under the broad term "legal theory."[9] This book analyzes these theoretical works, asking how legal scholars in India and Palestine assimilated, critiqued, and modified Western ideas about the nature of law, its development, and its relationship with society.

Intellectual historians, legal historians, and even historians of some specific subfields of law, such as international law, have long been aware of the importance of writing histories of modern law that

[7] One legal genre this book does not explore is case law. This omission is due both to constraints of space and to the fact that English judicial conventions have traditionally discouraged the explicit citation of academic scholarship in judicial decisions. See, generally, Neil Duxbury, *Jurists and Judges: An Essay on Influence* (Oxford: Hart, 2001), 61–115.

[8] Since the University of Calcutta will be the primary institution examined in the sections of this book focused on India, a survey of Bengali-language works by the scholars under analysis was conducted, using the Hiteshranjan Sanyal Memorial Archive. While this extensive database includes writings by several of these scholars on literary, linguistic, and historical subjects, it does not contain works in Bengali by these scholars on legal topics.

[9] "Jurisprudence" is a term that was also used in the past to designate any non-practical legal work (hence scholars used terms such as "historical jurisprudence" and "sociological jurisprudence"). Today, "jurisprudence" is usually used in a narrower sense in the English-speaking world, referring only to the practice of asking philosophical questions about the nature of law. In this book, I will use the term "jurisprudence" in its older, broader, sense, as synonymous with legal theory. An additional term, "legal thought," is often used to describe both explicit as well as implicit assumptions that legal scholars and other jurists hold about the nature of law. See, generally, William Twining, *General Jurisprudence: Understanding Law from a Global Perspective* (Cambridge: Cambridge University Press, 2009), 8; Roger Cotterrell, *Sociological Jurisprudence: Juristic Thought and Social Inquiry* (Abingdon: Routledge, 2017); Brian Z. Tamanaha, "Sociological Jurisprudence Past and Present," *Law and Social Inquiry* 45 (2020): 493, 511–12; Marietta Auer, "What Is Legal Theory?" *Rg (Rechtsgeschichte)* 29 (2021): 30.

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consider territories outside Europe and North America.[10] However, relatively few works examining the history of modern legal theory mention non-Western territories. The conventional assumption about this history is that non-Western legal scholars were merely passive recipients of ideas that had first appeared in the West. One can find this assumption in works written by legal historians.[11] Legal

[10] On the importance of studying the intellectual history of European peripheries, borderlands, and colonial territories, see, generally, Suzanne Marchand, "Has the History of the Disciplines Had Its Day?" in *Rethinking Modern European Intellectual History*, eds. Darrin M. McMahon and Samuel Moyn (New York: Oxford University Press, 2014), 130, 143–4; Stefan Nygård, Johan Strang, and Marja Jalava, "At the Periphery of European Intellectual Space," in *Decentering European Intellectual Space*, eds. Marja Jalava, Stefan Nygård, and Johan Strang (Leiden: Brill, 2018), 1, 2–8. On the need to write non-Eurocentric histories of jurisprudence, see, generally, Assaf Likhovski, "Czernowitz, Lincoln, Jerusalem, and the Comparative History of American Jurisprudence," *Theoretical Inquiries in Law* 4 (2003): 621; Werner Menski, *Comparative Law in a Global Context: The Legal Systems of Asia and Africa*, 2nd ed. (Cambridge: Cambridge University Press, 2006), 102–3, 119–28; Roger Cotterrell, "Ehrlich at the Edge of Empire: Centres and Peripheries in Legal Studies," in *Living Law: Reconsidering Eugen Ehrlich*, ed. Marc Hertogh (Oxford: Hart, 2008), 75, 77; Twining, *General Jurisprudence*, 10. On writing global histories of law, see, generally, Thomas Duve, ed., *Entanglements in Legal History: Conceptual Approaches* (Frankfurt am Main: Max Planck Institute for European Legal History, 2014); Thomas Duve, "What is Global Legal History?" *Comparative Legal History* 8 (2020): 73; Dupret and Halpérin, *State Law and Legal Positivism*. For discussions and examples of the non-Eurocentric histories of international law, see, e.g., Martti Koskenniemi, "Histories of International Law: Dealing with Eurocentrism," *Rechtsgeschichte* 19 (2011): 152; Arnulf Becker Lorca, *Mestizo International Law: A Global Intellectual History 1842–1933* (Cambridge: Cambridge University Press, 2014); Anthea Roberts, *Is International Law International?* (New York: Oxford University Press, 2017); Liliana Obregón, "Peripheral Histories of International Law," *Annual Review of Law and Social Science* 15 (2019): 437.

[11] See, e.g., Duncan Kennedy, "Three Globalizations of Law and Legal Thought: 1850–2000," in *The New Law and Economic Development: A Critical Appraisal*, eds. David M. Trubek and Alvaro Santos (New York: Cambridge University Press, 2006), 19, 29–30 (briefly mentioning local "resistance" to Western legal ideas); Jean-Louis Halpérin, *Profils des mondialisations du droit* (Paris: Dalloz, 2009); Jean-Louis Halpérin, *Five Legal Revolutions Since the 17th Century: An Analysis of a Global Legal History* (Cham: Springer, 2014). The institutional history of modern legal education in non-Western territories, too, is focused on the spread of Western models. See, e.g., Jean Portemer and Jean-Marie Carbasse, eds., "L'influence des Facultés françaises de droit Outre-Mer et à l'étranger," Numéro spécial, *Revue d'histoire des facultés de droit et de la science juridique* 15 (1994); Laetitia Guerlain et al., eds., "Enseigner le droit hors des frontières nationales (XIXe–XXe siècles)," Numéro spécial, *Cahiers Jean Moulin* 7 (2021), https://journals.openedition.org/cjm/1253; Catherine Fillon et al., eds., "Enseigner le droit

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philosophers also express such views.[12] A similarly Eurocentric approach characterizes works dealing with the subfields of legal theory, such as comparative law.[13]

hors des frontières nationales (XIXe–XXe siècles): Deuxième partie," Numéro spécial, *Cahiers Jean Moulin* 9 (2023), https://journals.openedition.org/cjm/2051; Annamaria Monti, "Professeurs italiens enseignant à l'étranger (XIXe–XXe siècle): Pour une mise en perspective des trajectoires individuelles," *Cahiers Jean Moulin* 9 (2023), https://doi.org/10.4000/cjm.2233 (discussing French and Italian models); Susan Bartie and David Sandomierski, eds., *American Legal Education Abroad: Critical Histories* (New York: New York University Press, 2021) (discussing American models). See also Rogelio Pérez-Perdomo, *Legal Education in the Western World: A Cultural and Comparative History*, trans. Anapaula Pérez and Rosa Meléndez (Stanford, CA: Stanford University Press, 2024). A recent important, but broad-brush, description of the topic that includes several paragraphs on the history of modern legal education in some non-Western territories is Jean-Louis Halpérin, "Historical Landmarks in Mapping the Spread of Positive Law Teaching," in Dupret and Halpérin, *State Law and Legal Positivism*, 33.

[12] In this vein, the impressive multi-volume *Treatise of Legal Philosophy and General Jurisprudence*, published between 2005 and 2016 by the Springer publishing company, which sought to provide a survey of the history of the philosophy of law from ancient times to the twentieth century, only contained very brief discussions of ancient Jewish and Islamic legal philosophy. The volumes in the series dealing with the twentieth century contained chapters devoted to Eastern European and Latin American legal philosophy, but they did not include any discussion of modern legal philosophy in the colonies of European Empires (or, indeed, in non-European countries such as China and Japan). See *A Treatise of Legal Philosophy and General Jurisprudence*, ed. Enrico Pattaro, 12 vols. (Dordrecht: Springer, 2005–16). It is interesting to note that older works, concerned with both pre-modern and modern legal philosophy, did include relatively extensive discussions of non-Western philosophies of law. See, e.g., Fritz Berolzheimer, *The World's Legal Philosophies*, trans. Rachel Szold Jastrow (Boston, MA: Boston Book Co., 1912) (discussing the philosophy of law of "Oriental civilization," i.e., the societies of the ancient Near East). For a general discussion, see also Halpérin, "Historical-Jurisprudential Methods."

[13] For examples of some recent discussions of the history of comparative law, see Martti Koskenniemi and Ville Kari, "A More Elevated Patriotism: The Emergence of International and Comparative Law (Nineteenth Century)," in *The Oxford Handbook of European Legal History*, eds. Heikki Pihlajamäki et al. (Oxford: Oxford University Press, 2018): 974; George Mousourakis, *Comparative Law and Legal Traditions: Historical and Contemporary Perspectives* (Cham: Springer, 2019), 71–103; Oleksii V. Kresin, *Comparative Legal Studies 1750–1835: Approaches to Conceptualization*, ed. and trans. William E. Butler (London: Wildy, Simmonds and Hill, 2019); Balázs Fekete, *Paradigms in Modern European Comparative Law: A History* (Oxford: Hart, 2021). Cf. Annelise Riles, *Rethinking the Masters of Comparative Law* (Oxford: Hart, 2004) (a collection of essays which does include chapters on Japanese and Egyptian comparative law scholars). On the unexplored colonial roots of comparative law, see Helge Dedek, "The Tradition of Comparative Law: Comparison and Its Colonial Legacies," in *The Cambridge Handbook of*

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Some of the institutions, thinkers, and works I examine in this book have previously been studied using national (that is, non-comparative) historiographical frameworks. Thus, there are many works that discuss how British colonial rulers viewed the normative systems of South Asia and reshaped them under the influence of Western jurisprudential theories.[14] However, the institutional history of Indian legal education remains relatively underexplored. Equally neglected is the study of how Indian jurists used Western legal concepts to examine their own religious legal traditions, particularly in the context of anti-colonial nationalist thought. As for Mandatory Palestine, some aspects of the institutional history of legal education and the history of the interaction between local legal scholars and Western jurisprudential ideas have been analyzed.[15] However, here, too, there has not been a thorough discussion of the topic, and there have certainly not been comparative works that seek to place the story of Mandatory Palestine within a broader framework.

By studying and comparing the history of legal theory in colonial India and Mandatory Palestine, this book seeks to provide a decentered, non-Eurocentric perspective on the global history of modern legal theory, adding a missing piece to existing accounts. It argues that the assumption underlying some leading works on the history of modern legal thought that no original development occurred outside the West is inaccurate.[16] Non-Western territories were not intellectual backwaters. The legal scholars working in these places were cosmopolitan and informed by the cutting-edge legal theories of their time. The works they produce were often insightful. Non-Western legal scholars had a distinctive vantage point because

Comparative Law, eds. Mathias Siems and Po Jen Yap (New York: Cambridge University Press, 2024), 387.

[14] For recent summaries, see, e.g., Lubin et al., "Introduction," in *Hinduism and Law*, 1; Jean-Louis Halpérin, "Western Legal Transplants and India," *Jindal Global Law Review* 2 (2010): 14; Mitra Sharafi, "South Asian Legal History," *Annual Review of Law and Social Science* 11 (2015): 309.

[15] See, e.g., Ronen Shamir, *The Colonies of Law: Colonialism, Zionism and Law in Early Mandate Palestine* (Cambridge: Cambridge University Press, 2000); Assaf Likhovski, *Law and Identity in Mandate Palestine* (Chapel Hill, NC: University of North Carolina Press, 2006); Amihai Radzyner, "Judaism and Jewish Law in Pre-State Palestine," in *The Cambridge Companion to Judaism and Law*, ed. Christine Hayes (New York: Cambridge University Press, 2017), 317.

[16] See Kennedy, "Three Globalizations."

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they taught law in areas where modern Western law and ancient normative traditions, such as customary and religious law, intermingled. These scholars were thus well-placed to question the theories produced by European thinkers, to revise Western conceptions of law with insights derived from non-Western legal systems, and even to argue, inspired by nationalist ideology, that one could not write the history of law without considering non-Western systems such as Hindu and Jewish law.

Another distinctive feature of the works examined in this book is the considerable effort scholars in colonial India and Mandatory Palestine devoted to demonstrating that the norms of their respective legal systems were not antiquated or regressive, but aligned with modern conceptions of society and politics. At the time, Western legal thought commonly regarded religious legal systems as occupying a lower rung on the ladder of evolutionary legal development, beneath modern Western law. As a result, such systems were often dismissed as irrelevant to contemporary legal, social, and political concerns.

In response, the scholars discussed here argued that their legal traditions shared meaningful affinities with modern Western law. A central focus of their work were norms dealing with personal status. In his influential 1861 book *Ancient Law*, Henry Maine, one of main advocates of the idea of legal evolution, famously asserted that "the movement of the progressive societies has hitherto been a movement from Status to Contract."[17] The scholars I study, whether explicitly or implicitly, rejected this claim. They challenged the notion that their ancient legal systems upheld rigid hierarchies of fixed status, and instead sought to justify norms found in them governing the most contested status categories: women, caste relations (in the context of Hindu law), and slavery.

Another area in which Western scholars saw a fundamental distinction between modern legal systems and religious ones was public law. Many Western thinkers maintained that democracy was a uniquely Western phenomenon, asserting that the modern liberal-democratic order had no parallel outside the West. In the Indian context, this belief manifested in the concept of "oriental despotism," which portrayed ancient Indian states as governed by absolute rulers.

[17] Henry Sumner Maine, *Ancient Law* (London: John Murray, 1861), 183.

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Regarding Judaism, Jewish public law was seen as undeveloped because of the loss of Jewish political independence after the destruction of the Second Temple. Accordingly, the scholars of Hindu and Jewish law that I discuss devoted significant effort to identifying democratic principles within their respective legal traditions.

Underlying the discussions of status and democracy was a deeper concern with the role of individual will in the private and public spheres (in the private realm, in the relations between husband and wife or master and servant, and in the public realm between subjects and rulers). The works of the scholars I analyze reflected the early twentieth-century crisis of the liberal ideal of individualism which was centered around the notion that the role of law was to facilitate the expression on individual will. Some of the scholars I examine responded to this crisis by arguing that liberal individualism was now being replaced by socialist collectivism. From this perspective, they contended that religious legal systems, based as they were on collectivist assumptions about the nature of society, were not only compatible with this transition from individualism to collectivism (and from liberalism to socialism), but perhaps were even better suited to address its demands, and thus actually more "modern" than liberal Western law.[18]

The main protagonists of this book are local legal scholars working in two colonies of the British Empire, India and Palestine, but they were not free of European influences. The Indian scholars I discuss had hybrid scholarly identity, being members of a Westernized local elite. They studied in Western or Western-style legal institutions, so their legal thought combined Western and local ideas.[19] They reflected, in the legal realm, a broader attribute of non-Western nationalism which both resisted but also imitated the West.[20]

[18] The view that individualist law did not represent the ultimate "end of history" in the supposed evolution of legal systems was also found in the works of Paul Vinogradoff, one of Henry Maine's most prominent followers in the early twentieth century. See Paul Vinogradoff, *Outlines of Historical Jurisprudence*, Vol. 1: *Introduction – Tribal Law* (London: Oxford University Press, 1920), 158.

[19] For a general discussion of the hybrid identity of anti-colonial intellectuals, see, e.g., Cemil Aydin, *The Politics of Anti-Westernism in Asia: Visions of World Order in Pan-Islamic and Pan-Asian Thought* (New York: Columbia University Press, 2007).

[20] See, generally, Partha Chatterjee, *Nationalist Thought and the Colonial World: Derivative Discourse?* (London: Zed Books, 1993).

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The Jewish legal scholars of Mandatory Palestine that I analyze and, more generally, early twentieth-century Zionist intellectuals, were also liminal figures on the borderline between West and East. Most of them were born in Europe. However, as I noted before, in the early part of the twentieth century, European Jews generally, and also Zionist Jews, were often considered foreigners by many non-Jewish Europeans. They were seen as Semitic aliens who had no place among the Aryans of Europe. As the passage with which I opened this introduction attests, this was also how many Jews, including many of the Jewish scholars I am interested in, viewed themselves.[21]

Although this book begins from the premise that the ideas of the scholars it examines merit serious attention, it is neither a celebratory account nor a hagiography. I do not set out to show that the scholars analyzed here were forgotten geniuses and that their works contained fundamental jurisprudential ideas. My goal is to reveal and analyze an overlooked chapter in the global history of modern legal theory; I make no claims suggesting that the missing piece discussed here should be considered the capstone of this history. The works I examine were interesting and innovative, but their impact on Western jurisprudential thought and on local legal communities was limited.[22]

[21] Zionists, and more generally Jews, are now often seen as privileged "whites," and Zionism is viewed as a European settler-colonial movement rather than as a movement of indigenous people returning (often after being ethnically cleansed from countries in Europe and the Middle East) to their ancient homeland. The view that identifies Jews as privileged "whites" is driven on occasion, I believe, by an age-old desire to frame Jews as the ultimate Other and attribute to them whatever evil (capitalism, communism, and now, colonialism) is currently fashionable. As historian David Nirenberg has argued in his book *Anti-Judaism*, the desire to frame the Jews as the ultimate Other has been a prominent and consistent feature of Western culture since antiquity. See David Nirenberg, *Anti-Judaism: The Western Tradition* (New York: Norton, 2013). For recent critical discussions of the view of Zionism as a settler-colonial movement, see, e.g., Yoav Gelber, "Is Zionism Colonialism?" in *The British Mandate in Palestine: A Centenary Volume, 1920–2020*, ed. Michael J. Cohen (New York: Routledge, 2020), 221; Stefan Vogt, Derek Penslar, and Arieh Saposnik, "Introduction: Unacknowledged Kinships," in *Unacknowledged Kinships*, 1. For an intermediate position, see also Derek J. Penslar, *Zionism: An Emotional State* (New Brunswick, NJ: Rutgers University Press, 2023), 67–98. Arguably, the very imposition of the indigenous-settler binary, appropriate for the study of countries such as the United States, Canada, Australia, or New Zealand, but ill-fitting in the case of Zionism, is itself a product of Western intellectual imperialism.

[22] The assessment of intellectual impact or "influence" is a tricky business. Citation practices are one possible approach, but influence can be exerted indirectly through

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Some readers may experience moral ambivalence and unease when engaging with the ideas explored in this book. This reaction arises because the figures I study defy easy classification within today's fashionable yet reductive binary classification scheme, which splits the world into villainous oppressors and noble victims. On the one hand, the scholars I discuss challenged deeply problematic Western perceptions of non-Western religious law, perceptions which were often rooted in racist notions of European superiority. This might lead readers to view them as brave anti-colonial heroes. On the other hand, their attitudes toward their ancient religious legal systems were often (though not always) apologetic. They frequently justified or overlooked aspects of these legal systems that, from a modern liberal perspective, are highly problematic, for example, the inferior status accorded to women under such systems. My account seeks to describe the scholars I study as they were, complex individuals with both positive and negative ideas, not one-dimensional heroes or villains who can be easily placed into an anachronistic mold.

This book offers a comparative history of legal theory in India and Palestine.[23] Why compare these two specific territories? Colonial India and Mandatory Palestine were very different, not least in scale. India was a huge territory, both geographically and demographically. At the beginning of the interwar period, it was home to approximately a quarter of a billion people. Furthermore, important parts of India had been ruled by the British for centuries. In contrast, when the British assumed control of the territory they called Palestine at the end of the

channels that are often less visible, for example, through one's students. A classical discussion of the methodological pitfalls involved in the historical study of intellectual influence is provided by Quentin Skinner, "The Limits of Historical Explanation," *Philosophy* 41 (1966): 203. See also Gary Browning, "Agency and Influence in the History of Political Thought: The Agency of Influence and the Influence of Agency," *History of Political Thought* 31 (2010): 345.

[23] For a general discussion of some of the theoretical problems involved in writing comparative (or transnational, or entangled) histories, see, generally, Michael Werner and Bénédicte Zimmermann, "Beyond Comparison: *Histoire Croisée* and the Challenge of Reflexivity," *History and Theory* 45 (2006): 30. For recent surveys of comparative legal history scholarship, see Seán Patrick Donlan, "Comparative? Legal? History? Crossing Boundaries," in *Comparative Legal History*, eds. Olivier Moréteau, Aniceto Masferrer, and Kjell A. Modéer (Cheltenham: Edward Elgar, 2019), 78; Christopher Tomlins, "Literature Review Article: Comparative Legal History," in *Comparative Legal History*, eds. Christopher Tomlins and Elizabeth Josselyn Boalt (Cheltenham: Edward Elgar, 2021), 1.

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First World War, this small territory had a population of fewer than 700,000. British rule in Palestine was also quite brief, lasting only three decades. Nevertheless, despite these differences, the two places shared some notable similarities. Specifically in the legal realm, the legal systems of both India and Palestine contained layers of secular and religious law. In India, imported British law existed alongside Hindu and Islamic law, which was applied by British courts in disputes involving family and inheritance matters. In Palestine, the legal system was based on Ottoman law, itself a mixture of Islamic and nineteenth-century French norms, together with English law imported by the British. Here, too, religious law (applied by Islamic, Jewish, and Christian courts) governed various personal law issues. In addition, another important aspect of the legal systems of India and Palestine, pertinent for the topic of this book, is that unlike many other British colonies, India and Palestine had a sophisticated system of academic legal education, which in turn led to the production of a sizeable body of works on legal theory in both places.[24]

There were also remarkable similarities in the politics and culture of colonial India and Mandatory Palestine. These similarities have already spawned a sizeable body of work comparing both places in the colonial and early postcolonial periods and discussing various forms of interaction between them.[25] Some of these works analyze

[24] In 1945, the territories controlled by the British Colonial Office, which at the time had a population of over 60 million people, had only four universities: the Royal University of Malta; Ceylon University College; the University of Hong Kong; and the Hebrew University of Jerusalem. Of these four universities, only the University of Malta had a law school. In Ceylon and Palestine, independent law schools established by the British (the Colombo Law College and the Jerusalem Law Classes) provided formal legal education. In addition, in Palestine, an independent Jewish law school, the Tel Aviv School of Law and Economics, existed. Thus, by the end of the Second World War, only three British law schools operated in all the territories administered by the Colonial Office. See The National Archives, London [TNA]: PRO CO 958/1, Minutes of the first meeting of the Commission on Higher Education in the Colonies, September 21, 1943, 1; TNA: PRO CO 958/3, "Report of the Commission on Higher Education in the Colonies," June 1945, 78; TNA, PRO CO 958/1, serial no. 25, Draft letter to the autonomous universities.

[25] Some examples are: Margaret Chatterjee, *Studies in Modern Jewish and Hindu Thought* (New York: St. Martin's Press, 1997); Yulia Egorova, *Jews and India: History, Image, Perceptions* (Milton Park: Routledge, 2006); Ayelet Harel-Shalev,

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legal matters.[26] However, none of the existing works has focused on the institutional and intellectual history of legal education and legal scholarship, which this book discusses.

In the Indian case, the book will focus mainly on scholars writing on Hindu law. In the case of Mandatory Palestine, it will focus primarily on scholars writing on Jewish law. In both instances, some attention will also be devoted to theoretical works on Islamic law. My analysis of the history of legal theory in India and Palestine seeks to uncover differences between them, but it also reveals that many similar jurisprudential developments occurred in both. Chapter 7 expands the field of vision to two other non-Western territories, Egypt and China, in order to show that India and Mandatory Palestine were not isolated cases. Rather, they were part of a wider jurisprudential wave that appeared simultaneously in the first half of the twentieth century in many non-Western territories.

The Challenge of Sustaining Democracy in Deeply Divided Societies: Citizenship, Rights, and Ethnic Conflicts in India and Israel (Lanham, MD: Lexington Press, 2010); Faisal Devji, *Muslim Zion: Pakistan as a Political Idea* (Cambridge, MA: Harvard University Press, 2013); Michael Walzer, *The Paradox of Liberation: Secular Revolutions and Religious Counterrevolutions* (New Haven: Yale University Press, 2015); "Hodu/Yisrael," ed. Eitan Bar-Yosef, Special issue, *Teorya u-Vikoret* 44 (2015); Arie Dubnov, "Notes on the Zionist Passage to India, or: The Analogical Imagination and Its Boundaries," *Journal of Israeli History* 35 (2016): 177; Benjamin Siegel, "The Kibbutz and the Ashram: Sarvodaya Agriculture, Israeli Aid, and the Global Imaginaries of Indian Development," *American Historical Review* 125 (2020): 1175; Maria Birnbaum, "Entangled Empire: Religion and the Transnational History of Pakistan and Israel," *Millennium: Journal of International Studies* 50 (2022): 561; Stern and Dubnov, "A Part of Asia or Apart from Asia?"

[26] See, e.g., Daphne Barak-Erez, "Symbolic Constitutionalism: On Sacred Cows and Abominable Pigs," *Law, Culture and the Humanities* 6 (2010): 420; Hanna Lerner, *Making Constitutions in Deeply Divided Societies* (Cambridge: Cambridge University Press, 2011); Yüksel Sezgin, *Human Rights under State-Enforced Religious Family Laws in Israel, Egypt, and India* (Cambridge: Cambridge University Press, 2013); Alexandre (Sandy) Kedar, "Expanding Legal Geographies: A Call for a Critical Comparative Approach," in *The Expanding Spaces of Law: A Timely Legal Geography*, eds. Irus Braverman et al. (Stanford, CA: Stanford University Press, 2014), 97; Rephael G. Stern, "Uncertain Comparisons: Zionist and Israeli Links to India and Pakistan in the Age of Partition and Decolonization," *Law and History Review* 39 (2021): 451; Gilad Abiri, "Intimate Rivals: The Freedom of Religious Nationalism," *Asian Journal of Law and Society* 8 (2021): 19; Yael Berda, *Colonial Bureaucracy and Contemporary Citizenship: Legacies of Race and Emergency in the Former British Empire* (Cambridge: Cambridge University Press, 2023).

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I chose to focus on India and Palestine as the two detailed case studies in this book not only because of the striking parallels between them, but also due to the trajectory of my own academic journey. I began my scholarly career nearly three decades ago with a doctoral dissertation on the legal history of Mandatory Palestine. While working on a chapter on the history of legal education in that territory, I unexpectedly encountered a wealth of material on legal education in colonial India. At the time, however, I found almost no secondary literature on the subject. Back then, colonial legal history, including the history of law in colonial India, was still in its infancy, with relatively few scholars working in the field. In the decades since, the field has expanded significantly. Yet, curiously, the history of legal education and legal research in colonial India remains largely unwritten, as does the broader comparative history of legal education and scholarship within the British Empire. This book is, in part, the product of my long-standing desire to better understand this neglected history, and to place it in a comparative context.[27]

My choice of the two additional case studies used to illustrate the global jurisprudential wave discussed in Chapter 7 of this book, Egypt and China, was determined by practical considerations. A number of other territories could have served as compelling examples, including the French colonies in Africa and Asia, the Dutch East Indies, or independent states such as Imperial Japan.[28] I chose Egypt because

[27] For a recent discussion noting the lack of works on the history of Indian legal education (and also comparing the history of legal education in colonial India and French Indochina), see Sara Legrandjacques, "Inégaux en droit: approche comparée de l'enseignement juridique en Inde britannique et en Indochine française XIXe–XXe siècle," *Cahiers Jean Moulin* 7 (2021), https://doi.org/10.4000/cjm.1334.

[28] On French territories (and also French law schools in places such as Tehran and Tokyo), see, e.g., Laetitia Guerlain et al., "Pour une histoire de l'enseignement du droit hors des frontières nationales (XIXe–XXe siècle)," *Cahiers Jean Moulin* 7 (2021), https://doi.org/10.4000/cjm.1258. On the Dutch East Indies, see, e.g., Upik Djalins, "Re-Examining Subject Making in the Netherlands East Indies Legal Education: Pedagogy, Curriculum, and Colonial State Formation," *Itinerario* 37(2) (August 2013): 121. On Japan, see, e.g., Hitoshi Aoki, "Nobushige Hozumi: A Skillful Transplanter of Western Legal Thought into Japanese Soil," in *Rethinking the Masters of Comparative Law*, ed. Annelise Riles (Oxford: Hart, 2001), 129; Masayuki Murayama, "Kawashima and the Changing Focus on Japanese Legal Consciousness: A Selective History of the Sociology of Law in Japan," *International Journal of Law in Context* 9 (2013): 565; Colin Philip Charles Jones, "Living Law in Japan: Social Jurisprudence in the Interwar Period"

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many of the relevant primary sources are in French and Arabic and are thus accessible to me. As for China, I was guided by the availability of a substantial body of English-language primary sources, and a relatively rich corpus of secondary literature in English.

This book seeks to correct and augment existing accounts in several scholarly domains: the intellectual history of law, legal philosophy, and the study of religion and politics. For intellectual historians of law, it challenges the West-centric narrative of the history of modern legal theory by foregrounding perspectives that originate outside the Western world. In doing so, it reorients the historiography of legal thought, pushing scholars to grapple with a broader, more inclusive intellectual landscape. This move is also relevant to scholars interested in specific subfields of legal theory, such as those concerned with writing a truly global history of comparative law in the early twentieth century.[29]

Legal philosophers will find that this book offers a critical re-examination of the basic assumptions of modern jurisprudence. It exposes the tension that existed (and continues to exist) between the claims of Western jurisprudence for universal applicability and the reality whereby certain non-Western normative systems do not entirely fit Western notions about the proper attributes of "law."[30] The ideas of the thinkers that I explore ought to inspire contemporary scholars of jurisprudence to pay more attention to non-Western legal systems in order to create comprehensive accounts of jurisprudence,

(PhD diss., Columbia University, 2017); Jason Morgan, *Law and Society in Imperial Japan: Suehiro Izutarō and the Search for Equity* (Amherst, NY: Cambria Press, 2020).

[29] See, e.g., Günter Frankenberg, "Critical Histories of Comparative Law," in *The Oxford Handbook of Legal History*, eds. Markus Dubber and Christopher Tomlins (Oxford: Oxford University Press, 2018), 43.

[30] An early example of this tension can be found in the works of the nineteenth-century English legal philosopher, John Austin, whose "general or universal jurisprudence" was intended to deal with "such subjects and ends of law as are common to all systems." See John Austin, *The Province of Jurisprudence Determined, and the Uses of the Study of Jurisprudence* (Indianapolis, IN: Hackett, 1998), 373. However, despite the claim to universality, Austin also stated that he was interested only in the "ampler and maturer systems of refined communities," adding that, because it is impossible to become familiar with all legal systems, "it is only the systems of two or three nations which deserve attention: the writings of the Roman Jurists; the decisions of English Judges in modern times; the provisions of French and Prussian Codes as to arrangement." Ibid., 367, 373.

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accounts that benefit from the insights offered by non-Western legal systems and their history, principles, and legal institutions.[31]

Finally, this book is relevant to students of the contemporary relationship between religion and politics. It analyzes calls made in the first part of the twentieth century to adopt norms and values found in Hindu and Jewish law. Interest in such norms and values has not disappeared. Indeed, it is now widespread both in India and Israel. Some politicians and intellectuals in both places reject Western liberal law in the name of religious law and ancient national traditions. Similar observations can be made about scholars and politicians in the Muslim world. They are even relevant to jurists in the Far East who are interested in uniquely "Asian" culture, law, and legal philosophy or in subcategories of the term "Asia," such as Chinese law and culture.[32] Recovering the early twentieth-century history of the interaction between Western legal theories (and the liberal ideology upon which these theories were often based) and non-Western religious traditions is not simply an academic exercise. It is a critical task for anyone seeking a deeper understanding of the urgent legal and political questions that define our present. As global power structures shift, this book offers valuable insights into the enduring dynamics that shape the often contentious, yet sometimes collaborative, interplay between Western and non-Western legal systems and the values underlying them.

Part I of this book sets the scene by discussing the institutional context underlying the story I tell, focusing primarily, but not exclusively, on two specific institutions providing legal education: the University of Calcutta in India and the Tel Aviv School of Law and Economics in Mandatory Palestine. This part also analyzes textbooks on jurisprudence and other theoretical works written by British and local law teachers in colonial India and Mandatory Palestine.

[31] See Twining, *General Jurisprudence*, xi, 6–7, 269–92 (arguing that "the mainstream Western canon of jurisprudence needs to be critically reviewed and extended to take more account of other legal traditions and cultures").

[32] See, e.g., Ralf Michaels, "How Asian Should Asian Law Be?" in *Convergence and Divergence of Private Law in Asia*, ed. Gary Low (Cambridge: Cambridge University Press, 2022), 227; Samuli Seppänen, *Ideological Conflict and the Rule of Law in Contemporary China* (Cambridge: Cambridge University Press, 2016); Samuli Seppänen, "Anti-Formalism and the Preordained Birth of Chinese Jurisprudence," *China Perspectives* 2018(4) (2018): 31.

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I begin Chapter 1 with an overview of the history of legal education in colonial India. Law schools appeared in India in the second half of the nineteenth century. By the beginning of the twentieth century, more institutions were providing legal education in India (and there were consequently more law students there) than in Britain. The chapter then turns to the history of the University of Calcutta, the leading university in India during the colonial period, and, even more specifically, the University of Calcutta College of Law, which opened in 1909. A discussion of jurisprudence textbooks produced in India follows. I first discuss works written by British professors in India in the late nineteenth century. I then explore works on jurisprudence written by Indian scholars. These include general works in which various Western jurisprudential approaches were summarized and theoretical works on Hindu legal philosophy published mainly by scholars associated with the University of Calcutta. The British textbooks and Indian works I examine were characterized by a more receptive approach to Continental legal theories than contemporaneous English works. Some works also criticized English jurisprudential theories using examples taken from local law and argued that Hindu legal ideas, norms, and institutions were preferable to Western ones. The unique nature of these works resulted from the need to teach jurisprudence in an environment where religious law coexisted alongside transplanted Western law. Another factor shaping the unique nature of the jurisprudential works written in colonial India was the anti-colonial nationalist ideology of their authors. Finally, I discuss theoretical works on Islamic law produced in India during the colonial period.

In Chapter 2, I turn to the history of the institutions providing legal education in Mandatory Palestine and then analyze the jurisprudence textbooks written by British and Jewish legal scholars working there. Just like the Indian textbooks, the works on jurisprudence produced in Palestine were characterized by their mixture of common-law and Continental legal theories, and their willingness to critique Western theories of law. They also viewed local religious law (Jewish law) not just as the source of family law but as a comprehensive alternative to Western law and jurisprudence. While focusing on Jewish scholars in Mandatory Palestine, the chapter also examines theoretical discussions of law found in works written by Palestinian-Arab lawyers.

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Interlude 1, which follows Chapters 1 and 2, examines similarities and differences between the institutional history of legal education in India and Palestine. It also compares the jurisprudential works produced in both places. It then focuses on a specific topic: the goals that animated theoretical writings by Indian and Jewish scholars. I argue that one major difference between the two groups of scholars was the idea of legal revival, that is, the use of modernized religious law as a source of state law. This idea was the driving force of Jewish scholarship in Palestine but played only a minor role in the thought of scholars of Hindu law in India.

In Part II of the book, I provide parallel biographies of two legal scholars, Radhabinod Pal and Samuel Eisenstadt. These scholars were chosen because of the wealth of primary sources available, enabling a detailed reconstruction of their lives and ideas. Both scholars were born in the same year, 1886, and followed similar educational paths. Their academic careers were also similar in that both published works devoted to analyzing their respective religious legal systems using Western jurisprudential theories, attempting to show the superiority of religious law over Western law. The interest of both scholars in traditional religious law was combined, in their thought, with a commitment to radical politics – the rejection of Western liberal ideology in favor of Indian (and also Hindu) nationalism, in Pal's case; and Jewish nationalism, but also socialism and, later, communism, in Eisenstadt's case.

Chapter 3 examines the life and ideas of Radhabinod Pal, who published several books on Hindu jurisprudence. These books combined Aryan racial theories imported from Europe, Indian and Hindu nationalism, and pan-Asian sentiments. The chapter shows the influence of Henry Maine's evolutionary theory of law on Pal's thought and the impact of Roscoe Pound's sociological jurisprudence. It also examines some significant themes in Pal's writings: the attempt to show the antiquity and superiority of Hindu jurisprudence; the rejection of Western evolutionary schemes of law that placed Hindu law on a lower evolutionary rung; apologetic defenses of how Hindu law treated slaves, women, and members of the lower castes; an analysis of Hindu law as part of a large family of "Aryan legal systems"; and, finally, an emphasis on the collectivist nature of Hindu law, which Pal positively contrasted with Western individualism.

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In Chapter 4, I discuss the life and ideas of Samuel Eisenstadt. Eisenstadt was a Jewish nationalist but also a socialist and, later, a communist, and his works reflected these ideological convictions. I introduce the jurisprudential influences that shaped Eisenstadt's view of law, showing how his works reflect the combined impact of the German Historical School and Marxist legal theory. I also discuss some of the ideas that animated his scholarship. Eisenstadt sought to show the superiority of Jewish law, for example, by arguing that Jewish legal education was better than Western legal education because of its non-elitist and non-materialist nature; he sought to prove that Jewish law did not represent a more primitive stage in legal evolution; and he was concerned with apologetically justifying more problematic aspects of Jewish law such as its attitude to slaves and women. Finally, like Pal, Eisenstadt highlighted the collectivist nature of Jewish law.

Interlude 2 draws insights from the similarities between the lives of Pal and Eisenstadt. In one sense, the two scholars were placed on opposite sides of the political spectrum since Pal espoused right-wing ideas, while Eisenstadt was a Marxist. However, ultimately, both were political radicals whose utopian political and legal ideas led them to seek alternatives to Western liberal law, blinding them to the problematic nature of these alternatives.

Part III of the book deals with works produced in India and Palestine on ancient Hindu and Jewish political thought, constitutional structures, and public law. Influenced by historicist jurisprudential approaches, Indian and Jewish scholars argued that notions such as the rule of law, democracy, elections, public opinion, personal liberty, and equality were not uniquely Western.

Chapter 5 discusses the Hindu polity literature, a body of works on ancient Indian political ideas, states, and constitutional and international law. The chapter shows how constitutional law and constitutional history (and related subjects such as international law) gradually emerged as topics of study in law schools in Britain and India in the late nineteenth and early twentieth centuries. It then paints a collective portrait of the scholars who produced the Hindu polity works and the ideas promoted therein. The authors of the Hindu polity literature argued that contrary to Western perceptions, ancient Indians were not only interested in spiritual matters. A significant corpus of practical treatises on statecraft emerged in ancient India. One can find

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in these treatises innovative ideas usually attributed to the West, such as the notion of the social contract or the idea of a system of norms governing interstate relations (that is, international law). The Hindu polity authors also invested much effort in countering the Western "Oriental despotism" image, according to which India was always governed by rulers whose power was considered divine and absolute, unconstrained by any system of checks and balances. These authors also attempted to show, contrary to the conventional view, that ancient Indian societies were not based on a rigid social hierarchy. The chapter then discusses the relationship of this literature to pan-Asianism and also mentions works on Islamic constitutional history that appeared in colonial India. Finally, the chapter explores some of the personal and political factors that led to the rise and decline of this body of works and the impact of this literature on actual demands for political and legal reforms during the colonial period and in the period immediately surrounding Indian independence in 1947.

Chapter 6 analyzes the equivalent scholarship on ancient Jewish public law created by scholars associated with the Tel Aviv School of Law and Economics. The chapter begins by discussing how constitutional law was taught in Mandatory Palestine. It then examines the life and works of some authors who wrote on Jewish public law in the first half of the twentieth century. An analysis of the main ideas that appeared in these works follows, including an examination of attempts to prove the existence of Jewish public law and its secular nature; arguments about the democratic nature of ancient Jewish states; efforts to show that seemingly modern notions, such as parliamentarism or civil rights, were to be found in ancient Jewish texts; and assertions about Jewish law as a source of foundational ideas of modern European constitutional and international law. I also examine the attitudes of Jewish law scholars to Christian political thought, and I briefly mention analogous discussions of Islamic public law found in works published by Palestinian-Arab authors. Finally, I analyze the causes leading to the appearance of this body of works, critiques of this oeuvre, and the impact of this literature on Jewish constitutional discourse in the period before and after Israeli independence in 1948.

Interlude 3 compares the Indian and Jewish works. Similar particularist and historicist jurisprudential assumptions drove the study of ancient constitutional history in both places. In the works produced in

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India and Palestine, one also finds similar arguments about the existence and relevance of ancient Hindu and Jewish texts to modern public law and similar assertions about the resonance of the ancient Hindu and Jewish political institutions and values with Western democratic and liberal institutions and law. However, there were also differences between India and Mandatory Palestine in the comparative frameworks applied, the professional background of the authors, the sources used, the ideological motivations, and the role of law in the bodies of literature produced in both places. Finally, I ask about the possible interaction between Indian and Jewish scholars and note the similarity in the impact (or lack thereof) made by both bodies of scholarship on the constitutional law of the newly independent states of India and Israel.

In Chapter 7, I argue that the developments in India and Palestine also appeared elsewhere, thus highlighting the existence of an early twentieth-century non-Western jurisprudential wave present simultaneously in many territories. The chapter first briefly discusses the history of Egyptian legal education. It then analyzes jurisprudence textbooks produced by Egyptian scholars during the first decades of the twentieth century. Then follows an outline of the history of legal education institutions in early twentieth-century China and a discussion of themes found in theoretical works published by Chinese legal scholars during the same period. Finally, the chapter compares Egypt and China to India and Palestine and discusses whether the similarities between these places were due to mutual influence.

The Epilogue argues that the story told in the book is relevant to anyone interested in contemporary political and cultural conflicts over the relationship between Western and non-Western law and values. The legal scholars whose works I discuss in the book sought to reconcile West and East and to apply modern Western legal theories to the study of ancient religious law. They did not view Western and non-Western law, institutions, and values as irreconcilable. Instead, they sought to incorporate the history and ideas of their ancient legal systems into a global history of law, which would include both Western and non-Western law. At a time when democracy and liberal values are increasingly being questioned by politicians and thinkers outside the West (and also within it), the often-overlooked writings of early twentieth-century legal thinkers from colonial India and Mandatory Palestine still hold profound significance.

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