Trespasses of the State

Ministering to Theological Dilemmas through the Copyright/Trademark

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This is part of my ongoing work on Pakistan. Let me briefly locate it so you may see that I approach Pakistan neither through cynicism nor nostalgia, which are the usual scholarly modes, but through disappointment. This inclination is not mine alone, but shared by many amongst whom I worked in Lahore. It is necessary to state this at the outset because I see disappointment as an important mode by which dissent is expressed; I see it as a mode of turning away from the Pakistan that exists, towards the Pakistan that can be. It is precisely by engaging with variegated expressions of disappointment that my work excavates the pedagogical project to forge modern Muslims with which Pakistan came into being in 1947.

This project simultaneously exalted and feared the capaciousness of the Muslim to 'become'. Yet, at the same time, it appeared to accept limits of knowledge on who is a Muslim. I see the subsequent exclusion of the Ahmadiya (a Muslim sect of 19th century origin) from the fold of Islam through a constitutional amendment in 1974 as an attempt to transcend the limits of this knowledge. [Who the Ahmadis are will become clearer over the essay, but to briefly introduce them: it was anti-Ahmadi sentiments that incited the public to riot in the early 1950s in Pakistan, leading to the imposition of martial law in Lahore in 1954. This was the first, perhaps the most portentous, intrusion of the army into civilian life. This event marks the significance of the Ahmadis to the history and the pedagogical project of becoming Muslim in Pakistan.]

That the state attempts to transcend the limits of its knowledge regarding who is a Muslim should not come as a surprise. But the modalities by which the state tries to do so are of some interest. Emergent legal genres, notably the copyright and the trademark,[1] are made to reach beyond themselves, to poach upon their futures, to minister to doubts over who is a Muslim. Here I will track several movements of the copyright/trademark in late-20th century Pakistan: (1) their prefiguring within a culture of pious imitation specific to Islam; (2) their emergence within Pakistani courts struggling to give expression to the 'Ahmadi problem' within the limits of positive law; and (3) the imagination of the Muslim as both a rights-bearing subject and as an object of licensing and verification that the copyright/trademark enables. I hope these movements will elucidate the seduction of transcendence, particular to Islamic modernity, in Pakistan. At the same time, this

invocation of the copyright/trademark is not without some innovation on part of the Pakistani state. It is a sign of its restless trespasses to actualise its pedagogical project of becoming Muslim, even if this is done by curtailing the fold. I conclude by returning briefly to how disappointment as a mode of being may allow a recuperation of these trespasses by the state, even at the register of the potential, that is, the not yet/yet to come.

Prefiguring

To say that the copy is central to the Islamic tradition is in some ways to state the obvious. The importance Muslims give to the Quran makes its faithful textual copy through the work of scribes and of *hafiz-e-Quran* (inscribing the Quran upon their minds and bodies) commensurate in sacredness to the original Ur-text. However, we have to be careful not to read 'copy', understood in its modern sense as a mass-produced object co-emergent with, yet marking a break from, the original aura-saturated object (*pace* Benjamin, 1968), into a tradition that values pious imitation. The Prophet Muhammad is the model for emulation, and not copying, for all Muslims. The *insaan-e-kamil* (the perfect person) strives to embody the Prophet in appearance and behaviour, the proper alignment of interiority and exteriority being key to this pious imitation.

Yet, modern discourses of the copy, i.e., the play of values between the original and the copy, do intrude upon this culture of pious imitation. In each of the three legal judgments I will discuss, from 1978, 1985 and 1993 respectively, there is a moment in which the judges, having exhausted all theological and legal arguments as to why Ahmadi claims upon the title of 'Prophet' and of 'Muslim' are misguided, ask whether the Ahmadi attempt to 'pass off' as Muslims can be considered a bad copy of the original. Can this constitute (further) grounds for their enforced separation from Islam?

In this mode of questioning I see a prefiguring of the copyright/the trademark. But before we plot the actual emergence of the legal genres and how they are made to apply to the accretions of a religious tradition with a vast following, let me briefly locate the Ahmadiya within the field of Islam and its culture of emulation, with a vocabulary finely attuned towards determining degrees of belongingness within this community.

Islamic history, as related by its interlocutors (Friedmann, 1987), is a story of decline, of the degeneration of a perfectly realised community around the Prophet to an atomised one in which the individual Muslim is reliant upon his/her own capacities to lead a correct life within a largely corrupt world. With little recourse to divine guidance, the prayer and the dream are the few authorised ways one may feel the presence of divinity. However, even extreme absorption into these modes of being augurs madness. The mystical tradition has perhaps the most developed pathways to the divine. The initiate can tune himself/herself to receive divine guidance and, as the veils fall away through rigorous spiritual exercises, can move closer to the force of divine will. Yet, throughout Islamic history the initiate who claimed to have merged with the divine or have moved into the position of the beloved of the divine (in the manner of the prophets) has been dealt with severely. The Ahmadiya may be seen as an expression of this messianic strain within the Islamic tradition, an attempt to re-birth and re-experience revelation in the contemporary world. Mirza Ghulam Ahmed, the founder of the movement, claimed himself to be a

prophet in the Islamic and Christian senses and, on occasion, an avatar of Krishna in the Hindu sense.

Yet what nature of prophet was he? Each of the judgments I discuss goes into great detail in evaluating Mirza Ghulam Ahmad's claims to be a prophet. This detail is worth laying out for delineating the shadow lands around the accepted picture of pious imitation. We are told that the Mirza *sahib* initially accepted the claim that the Prophet Muhammad was not only the best, but also the absolutely last prophet to be sent to this world. This has, after all, come to be the authoritative understanding of the phrase, Finality of Prophethood (*Khatam al-Nabbuwat*). In his early writings, Mirza *sahib* claimed to be a *mujaddid* (renewer) of the faith. Slowly he started to introduce the term *muhadith* in place of *mujaddid*, which implied that he was in conversation with angels, if not yet with the Prophet and with God. Later, he claimed himself to be *Zilli-e-Muhammadi* and *Buruz-e-Muhammadi*. In other words, if the Prophet Muhammad was the shadow (*zil*) of God upon the universe, Mirza *sahib* claimed to the shadow of the Prophet upon the world. If the Prophet was so perfectly constituted as to be a reflecting surface for God's personality, Mirza Sahib claimed himself to be a reflecting surface for the Prophet's virtues, his manifestation (*buruz*) upon the world. In either case, Mirza Ghulam Ahmad considered himself to be only a 'partial Prophet', a *mursal* (a messenger sent by the Prophet). This claim alone is quite controversial, for it suggests that the Prophet operates independently of God in sending messengers of his own. But Mirza *sahib* then went on to claim himself a prophet in his own right. He said that he had so abjectly merged himself with the Prophet that he transmitted the Prophet's being through himself. He was in effect the Prophet. In his own words:

"A man should sink himself to such an extent in the obedience of the Holy Prophet (PBUH) that he may reach a stage 'I have become you and you have become I'" (PLD 1985: 58).

Drawing upon the thought of the 12th-century Sufi saint Ibn-Arabi, Mirza *sahib* claimed the status of a non-legislative prophet whose coming did not undo the law brought by the legislative prophet, the Prophet Muhammad, but only enhanced it.

It would appear from the judgments that the copy of the Prophet was self-vaunting in competing with and finally subsuming the original. The average Ahmadi was similarly a pesky copy of the Muslim. Let us now lay out the Ahmadi location within the culture of pious imitation by asking, what nature of Muslim was the Ahmadi? While Ahmadis were Muslims prior to the 1974 constitutional amendment, they were never uncontroversial as Muslims (as we sense from the anti-Ahmadiya riots of 1953). They were labelled *kafirs* (infidels) and *murtadd* (apostates) by the more orthodox *ulema* from the moment of their public emergence in colonial India of the mid-19th century, with Mirza Ghulam Ahmad's wholehearted participation in the arena of religious disputations. In other words, they were viewed as Muslims who had placed themselves beyond the pale of Islam through their support of a *taghut* (the antonym of Allah, a devil, a sorcerer). Even if this were not the case, that is, even if they were minimally acceptable as Muslims, their continued support of Mirza Ghulam made them suspect as *munafiqun* (hypocrites), those who cultivated the appearance of Muslims while plotting their overthrow in the early years of the Prophetic community.

This argument, though traditionally provided by the *ulema*, is carefully reproduced by several of the judges under consideration. These categorisations of the Ahmadis as *kafir*,

taghut, murtadd, munafiqun had an internal hierarchy, each implying a relative pariah status, moral disapprobation and, possibly, punitive charge. At the same time, *tauba* (repentance) was also always a possibility, with differential availability, to allow one to shake off these characterisations and to return to the fold of the community.

However, this theological vocabulary was overlaid by the category of the 'non-Muslim minority', roughly similar to the Islamic understanding of *dhimmi*, by which Ahmadis came to be known after the 1974 constitutional amendment. This category was already in use within the constitution to designate Hindus, Buddhists, Christians and others living in Pakistan. It seemed to allow for a seamless transition of the Ahmadis from the status of Muslim to non-Muslim without the manifold differentiations, movements and durations enfolded into the pariah status within the theological register. Despite this amendment, the Ahmadis persisted in calling themselves Muslims and undertaking Muslim modes of ritual behaviour.

These judgments are a few significant ones from a teeming pool of cases that arise out of a perception of Ahmadi transgression of standing law, and out of Ahmadi challenges to these laws. But for now let me just note that in each of these judgments the judges exclaim that Ahmadis are not only bad, but also dangerous copies, of Muslims. What they are remarking upon is a certain ontological challenge offered by the copy to the original. If Ahmadis consider themselves rightfully guided Muslims and everybody else *kafir* in keeping with a 19th-century *fatwa* (legal opinion) pronounced by Mirza Ghulam Ahmed, then Muslims accepting the Ahmadi assertion of being Muslim, even if that acceptance was only deduced from their paying no attention to it, would in effect be like an original accepting annihilation in the hands of its copy.

> "It is thus clear that according to Ahmadis themselves…Ahmadis and the main body cannot be Muslims at the same time. If one is Muslim, the other is not (SCMR, 1993: 1768)".

Thus, the modern discourse of the copy may be seen as one, among other ways, of giving specific expression to a generalised fear about the improper emulation of the Prophet and his followers, by suggesting an agonistic and antagonistic landscape in which originals and copies vie for supremacy.

Emergence

Let us now turn to the aforementioned legal judgments to understand exactly how the copyright/trademark emerges in response to this particular framing of the Ahmadis, that is, as bad and dangerous copies. The first of the judgments appears only a few short years after the 1974 constitutional amendment. In 1978, in *Mobashir v. Syed Amir Ali Shah Bokhari* (henceforth to be referred to as PLD 1978), judges of the High Court of Lahore are called upon to deliberate whether the plaintiffs have sufficient cause to file an injunction preventing Ahmadis from praying in their own mosques. The judges, however, will not accept Ahmadi arguments that the constitutional amendment only makes them non-Muslims in matters relating to the constitution, and that they are Muslims for all other purposes.

> "The learned counsel would have us believe that a person can be non-Muslim for the purpose of the Constitution and the law and a Muslim for the other purposes. Neither the law or Constitution or Islamic Shariah allows a person to remain Kafir for certain purposes and to be converted to Islam for other purposes (1978: 154)".

Moreover, the judges are also not convinced that the amendment gives authority to Muslims to police Ahmadi practices. The Specific Relief Act of 1887, one of the laws referenced by the plaintiffs, only provides relief in the event of an infringement upon one's own property and office, and not on that of another's. Similarly, neither does the concern for law and order in Section 91 in the Civil Procedure Code, the second law cited by the plaintiffs, cover the hurt to religious sentiment and any possible excess that may or may not result from it. Moreover, the High Court judges see no precedence for bringing in Islamic law within the gambit of the law of the nation, restricting their judgment to the law in place at the time.

In spite of all this, they do appear to understand that the plaintiffs are in search of a law that will prevent Ahmadis from continuing as before the amendment. They even go so far as to suggest that the plaintiffs are giving inchoate expression to something akin to copyright/trademark law that would disable non-Muslims from encroaching upon Muslim rights over their tradition:

> "The suit appears to be based on some supposed right analogous to a right in the nature of trade mark or copyright or infringement of analogous rights by passing off (139)".

The Judges Will Not Have Any of This

> "Rights in trademarks or copyrights are matters which are the concern of statutory law. There is no positive law investing the plaintiffs with any such rights to debar the defendants from freedom of conscience, worship, or from calling their place of worship by any name they like (139)".

Instead, they call upon a certain neighbourliness, which, in their view, made *qadi* justice work at the peak of Muslim power in India and which they see in the enjoinment to justice, equity and good conscience in British and Anglo-Indian Law. Within this approach one simply assumes that what the Ahmadis do is their own business and that they mean no harm, having inflicted no harm upon the neighbourhoods of their residence and places of worship thus far. In effect, the judges advocate a staged ignorance of Ahmadi mores.

By 1985, such plaintiffs have in place a law to target the Ahmadis. President Zia-ul Haq of Pakistan promulgates a notorious ordinance, titled Ordinance XX, in which Ahmadis are debarred from the use of any honorific titles and modes of address specific to the Prophetic community, from building mosques and calling the *azan*, from undertaking Muslim modes of worship, and from making any citations from the Quran and the Prophet's *ahadith*. The Penal Code is adjusted to provide two years of imprisonment to anyone caught doing any of the above. In effect, this ordinance criminalises the everyday life of Ahmadis.

Before they go on to fight the constitutionality of the ordinance in the Supreme Court of Pakistan, Ahmadis first dispute the Islamic basis of this ordinance at the Federal Shariat Court. This court was established by Zia-ul Haq in the 1980s to evaluate the repugnance with which Islam viewed existing laws. In the 1985 case *Mubibur Rehman v. The Federal Government of Pakistan* (henceforth to be referred to as FSC 1985), the Shariat Court judges write a lengthy judgment in which they first put on trial the Ahmadi claim to be Muslim, before they go on to endorse the Islamic basis of the ordinance. One of the most significant moves the Shariat court judges make, from the perspective of the emergence of the copyright/trademark within the context of the Ahmadis, is to explore the meaning of the word *khatam* in *Khatam al-Nabuwwat* (The Finality of Prophethood). The judges write:

> "*Khatam*…means to prevent. It usually means the protection of a thing from mixing with other things. *Khatam* means seal too which means to prevent another thing from mixing with the sealed thing (FSC 1985:19)".

While these statements enunciate a clear concern that an object be unmixed/unadulterated, what is nascent in this etymological exercise is the idea that an object bears a seal of authentication in the nature of a trademark, such that both the object and the seal are in need of constant protection. Or is it that the seal is more acutely vulnerable (see Coombe, 1991, 1996). Be that as it may, this discussion of the meaning of *khatam* in *Khatam al-Nabuwwat* opens up the possibility of speaking of aspects of Islam as being sealed off and exclusive to Muslims, but only to those who have been authenticated.

Even though the Shariat court judges endorse the ordinance, they struggle to give a positive spin to it so that it does not appear to place value upon aspects of Islam only after their improper use by Ahmadis. They do this by making those things now forbidden to the Ahmadis – the mosque form, the mode of prayer, the call to prayer, the honorific titles and the revered texts – *shia'ir* or distinctive markers of the Muslim *ummah* (moral community), and delineate how each has come to be so. By the end of their discussion it appears, however, that most things have come to be exclusive to Muslims only through customary practice, which does not preclude the possibility of their use by non-Muslims. Here again recourse to the idea of the copyright/trademark allows for a certain first-ness of possession:

> "This strategy [of Ahmadis passing of as Muslims]…bears strong resemblance to the passing of by a trader of his inferior goods as the superior well known goods of a reputed firm (100)".

As "superior well known goods", these markers are to be accorded the highest respect by all and protection by the state. Here, the Federal Shariat Court, a merely consultative body whose judgment bears no binding force, issues a warning to the state:

> "If an Islamic state in spite of its being in power allows a non-Muslim to adopt the Shia'ir of Islam which affects the distinguishing characteristics of Muslim Ummah, it will be the failure of that state in discharge of its duties (111)".

Cases filed against the Ahmadis and Ahmadi cases against extant laws and acts of persecution crowd the dockets of the Supreme Court of Pakistan. In 1993, as martial law lifts, the Supreme Court seizes the opportunity to exercise its independence of the executive by swooping up a number of such cases, criminal and civil, to provide a definitive statement on the Ahmadi situation in *Zaheeruddin v. The State* (henceforth to be referred to as SCMR 1993). Along the way this bench of judges also deals with a whole host of issues long nagging the legal courts, such as whether the 1974 constitutional amendment and the 1985 ordinance are indeed legal; that they do not contradict the constitutional rights of minorities as these rights have to take second place to the protection and proper transmission of Islam in Pakistan; and, that standing law in Pakistan has to be qualified by Islamic law. This judgment is widely read as a serious curtailment of the fundamental rights of minorities in Pakistan (see Lau, n.d.).

Be that as it may, I am more interested in the way the copyright/trademark are invoked to render a judgment against Ahmadi encroachments upon Islam that is almost entirely expunged of theological vocabulary, linking it instead to an affective-legal feedback loop. While the judgment re-treads old territory of the ontological challenges posed by the Ahmadi Prophet to the Prophet Muhammad and Ahmadis to Muslims, the judges are not concerned with providing yet another disputation of these challenges. Instead, all, except one dissenting judge, decry that Pakistan lacks the legal wherewithal to protect *shia'ir-e-Allah* in the way that it has law, which it shares in common with the world community of nations, to protect national insignias, original works, and markers of distinction of consumer goods.

> "It is to be noted that it is not only in Pakistan but throughout the World, that laws protect the use of words and phrases which have special connotations or meaning and which if used for other may amount to deception or misleading the people (SCMR, 1993: 1751)".

> "A law for protection of trade and merchandise marks exists practically in every legal system of the world to protect the trade names and marks etc. with the result that no registered trade name or mark of one firm or company can be used by any other concern and violation thereof, not only entitles the owners of the trade name or mark to receive damages from the violator but it is a criminal offence (1751)".

It may appear that in calling for a legal structure analogous to copyright or trademark laws for the protection of *shia'ir-e-Allah,* the Supreme Court is simply actualising a potential for the use of the copyright/trademark against Ahmadis long simmering in earlier judgments. However, this Court does something slightly but significantly different. In harnessing the language of copyright/trademark to the Ahmadi question, the Court is making much more apparent that the intent of these transgressions, that is, the unlicenced use of titles, texts, modes and spaces of worship, is that of wilful deception. 'Passing off' as Muslim is transmuted to 'posing as' Muslims. The taken-for-granted deception of a trickster trader passing-off his inferior goods as those of a reputed firm is now both transposed upon the Ahmadi and transmuted such that Ahmadi actions constitute a deliberate and shocking deception of the Muslim:

> "The appellant, on the other hand, insist not only for a licence to pass off their faith as Islam but they also want to attach the exclusive epithets and descriptions etc., of the very revered Muslim personages to those heretic non-Muslims, who are not even a patch on them. In fact the Muslims treat it as defiling and desecration of those personages. Thus the insistence on the part of the appellants and their community, to use the prohibited epithets and the 'Shaa'ire Islam' leave no manner of doubt even to the common man, that the appellants want to do so intentionally and it may, in that case amount to not only defiling those pious personages but deceiving others. And, if a religious community insists upon deception as its fundamental right and wants assistance of Courts in doing the same, then God help it (1754)".

The Supreme Court understands that company/copyright/trademark law has an affective dimension that spontaneously calls forth a particular reception and response to its transgression. Ahmadis encroach upon Islam because they can. Neither Muslims nor the Islamic state is affectively constituted and legally armed to provide the necessary aura of protection around such objects, such that non-Muslims may recoil from using them. The judgment, in effect, calls for a feedback loop similar to copyright/trademark law, for only then will Muslims, in general, and the Islamic state, in particular, treat *shia'ir-e-Allah* in the appropriate manner so as to make unthinkable its improper appropriation and use.

More pragmatically, such a legal set-up provides a positive spin to Muslim claims upon the accretions of their tradition as distinctive markers of their community, their vague sense of exclusive rights re-constituted as a proprietary right whose transgression can be easily and quickly demonstrated, judged and penalised in the court of law.

Yet this affective-legal feedback loop, as I have been terming the particular relation between affect and law, makes deception out to be endemic, insists upon its continual unmasking and its shocked reception, and demands a collusion between shock and punitive law. Thus, in trying to raise not just the state but also the ordinary Muslim to the bird's-eye view of God, this judgment performs a transcendence particular to Islamic modernity in Pakistan.

However, the judge in the minority within the Supreme Court breaks with this blanket reading of deception onto Ahmadi practices. He treats each case embedded within this judgment on its own terms, making particularly interesting pronouncements in relation to two specific instances that are suggestive of how transcendence is continually undermined. In one case he makes an argument for dissimulation (pretence under fire) as opposed to deliberate deception:

> "As regards the allegation that on being questioned and interrogated they [defendants] gave the reply that they were Muslims while in fact they were Quadiani or Ahmadis that too will not be an offense under the law. Posing involves voluntary representation. In giving reply to a question one does not respond voluntarily but as would appear from the circumstances of these cases under threat or duress. One may hide his religion in public to protect himself…(1747)".

In another case where some Ahmadi men are being prosecuted for wearing badges with the Muslim article of faith upon them:

> "The exhibition or use of '*Kalma Tayyabba*' correctly reproduced, properly and respectfully exhibited cannot be made a ground per se for action against whose who use '*Kalma Tayyabba*' in such a manner. If for ascertaining its peculiar meaning and effect one has to reach the inner recesses of the mind of the man wearing or using it and to his belief for making it an offence then the exercise with regard to belief and the meaning of it for that person and the purpose of using and exhibiting the '*kalma tayyabba*' would be beyond the scope of the law…(1748-49)".

In some ways this judgment poaches upon the future of copyrights/trademarks. Proprietary law certainly was not so advanced in Pakistan, or anywhere else, at that time or even now for that matter, that it could recommend a legal set-up to parallel to it but within a differently constituted domain – that of religious beliefs and practices. However, I think this affective-legal feedback loop does indeed tap into the potential power of this legal genre, in that copyright/trademark appears to overreach itself in attempting to provide various ministrations to a long-standing theological dilemma.

Conclusion

There is a way in which the innovations of the Supreme Court bring the state back to the original pedagogical project with which Pakistan began. The judges call for the legal-affective reconstitution of the Muslim, that is, the re-education of the Muslim in line with the emergent possibilities of the copyright/trademark. This can be viewed as an opening into the future of an otherwise stalled education. Yet how does one acknowledge this innovation within the state, its trespasses upon the future, without supporting its leap to transcendence? I propose listening in on the minority voice of various judges that runs through these judgments. More in the nature of white noise in a communication channel, they augur a much more chaotic landscape of copies than any copyright/trademark can suppress.

Copy/Simulacra:

In the case of Mirza Ghulam Ahmad in particular and of the Ahmadis in general, I see almost all the judges suggest that the so-called Prophet and so-called Muslims constitute a category of copies by themselves, one that acts like no other in trying to subsume its original. This seems to me to come closest to Gilles Deleuze's discussion on the simulacrum as distinguished from copies in "Simulacrum and Ancient Philosophy", in which he writes: *"Copies* are secondary possessors. They are well-founded pretenders, guaranteed by resemblance; *simulacra* are like false pretenders, built upon a dissimilarity, implying an essential perversion or deviation".

Further on he writes: "…the simulacrum implies huge dimensions, depths, and distances that the observer cannot master. It is precisely because he cannot master them that he experiences an impression of resemblance. The simulacrum includes the differential point of view; and the observer becomes a part of the simulacrum itself, which is transformed and deformed by his point of view. In short, there is in the simulacrum a becoming-mad, or a becoming unlimited…"

Let me briefly say that I take distance from Jean Baudrillard's understanding of the simulacra as the effect of postmodernity, as representations drained of life and reality. Instead, along with Deleuze, I insist upon an understanding of simulacra as internal to the copy, grounded and ungrounded by it, as it grounds and ungrounds the copy. The simulacra may be taken to be the Ahmadis, but I would argue that the simulacra, implying "huge dimensions, depths, and distances that the observer cannot master", is only in its final form the Ahmadis. What it implies is a space between Ahmadis and Muslims, a massive space of movements in which Muslims are always becoming minority even as they render Ahmadis a minority for attempting to become Muslim. We would then need to understand how to treat the threats and possibilities of 'becoming minority' alongside the treatment I have attempted of the processes of 'becoming Muslim'.

Deception/Dissimulation

If we follow this line of thought and think of the space between Muslims and Ahmadis as akin to simulacra, we are then able to better understand a little of what the judge in the minority in the Supreme Court case was speaking about. He was, in fact, drawing our attention to the play of simulacra through the place of dissimulation in everyday life. Let us think of dissimulation as the necessary art of surviving in a hostile milieu, as a life-giving force in that it enables patching over rough spots, and as productive of the temporary evanescence of peace. We see how it would require a different affective-legal edifice to accept and enable this mode, one in which one could stage ignorance, as called for by earlier judges in PLD 1978, rather than the one called for by Supreme Court in SCMR 1993 through its assumption of widespread and proliferating deception.

Disappointment

The question that hovers but will remain unanswered is how one is to acknowledge innovation within practices, be they of the state, courts, judges, or lay Muslims, in such a way as to move this innovation, and hence the pedagogical project, forward, or rather backwards, into an acceptance of the limits of knowledge. In the 11th century, Imam Al-Ghazali came out of a period of radical doubt about the existence of the divine through recourse not to knowledge but to *zauq* (literally, through developing a sensory taste for the divine, through 'tasting' the divine). Might not we sense the divine in each other through this mode?

NOTES

1. I am mindful that the two are not one and the same in keeping with the cautionary remarks of Richard Stallman in "Did You Say 'Intellectual Property?' It's a Seductive Image". Although the two terms are used interchangeably within the judgments I discuss, I try to maintain the distinction between copyright as the legal right to control the use and reproduction of original works, and trademark as the distinctive seal of a corporate entity upon its products.

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