

## Introduction

WHAT IS THE RELATIONSHIP between modern law and the human, and what was the colonial career of this relationship? How was the concept of the human cemented in the legal processes of colonizing projects? Did this concept signify a person bound by the chains of colonial law, or a subject who lived in the space of modern juridical power assumed to be able to abide by it or rebel against it? These questions guide the inquiry of this book, situated in Egypt under British occupation (1882–1936), when Egyptians were recruited to the production of cotton for British and other world markets, and when the technologies of colonial rule came to rely heavily on the new positive law and the new figure of the human. The “human” here is a concept/figure that stands for a specific species, a certain status, a particular form of life.<sup>1</sup> The significance of these questions stems from the fact that the concept of the human was at the center of a range of knowledge and modes of rule that are becoming all the more evident today.<sup>2</sup>

During the era of colonial rule, Ottoman Egypt suffered a rupture in its legal history. This rupture consisted in the introduction of a new legal system of positive law that replaced the Ottoman-khedival legal order grounded in the tradition of Islamic law—the *shari'a*. This book investigates the thought, institutions, practice, and sensibilities of the modern colonial rule of law. It traces the novel relationship they cemented between the prevailing rule of law and the human, a relationship that engendered its own colonizing operations. This new relationship was part of what Talal Asad describes as colonialism’s “irreversible process of transmutation, in which old desires and ways of life were destroyed and new ones took their place—a story of change without historical precedent in its speed, global scope, and pervasiveness.”<sup>3</sup>

A central tenet of the anticolonial tradition locates the power of colonialism in the exclusion of the colonized from the realm of “universal humanity,” in their “thingification.” Aimé Césaire is one important figure

in this tradition.<sup>4</sup> According to this position, the forces of colonialism unleash themselves against the colonized by dehumanizing them—equating them with, or reducing them to, animality or the nonhuman. The end of colonialism and the termination of its constellation of forces signal, in these accounts, the reentry of the colonized into “universal humanity.” Deploying a parallel argument, liberal accounts of the modern rule of law equate its ideals with protection of the human. These accounts maintain that exclusion from the law, or assignment to an extralegal status, results in dehumanization. When the rule of the law prevails upon the lives of the dehumanized, their entry into its domain occasions their rehumanization.

By these accounts, modern law and colonialism occupy the same space of humanity/nonhumanity, humanization/dehumanization: colonialism negates humanity and the modern rule of law, both of which stand united in their idealized form against colonial forces: colonialism dehumanizes; modern law recovers the human. The result of these accounts is to reinforce both the necessity and the superiority of the modern rule of law. It now appears as a place of refuge for the human, or more modestly, a place in which some forms of resistance against colonialism could unfold. But are such accounts the only story of modern law? To what extent do they reproduce its metanarrative? Does the colonial career of modern law complicate its presumptive protectiveness, and if so, how? Might a historical account of modern law’s operations reveal a system of juridical bondage that the law fashioned as it assumed for itself the identity of a site of refuge?

These accounts of the law and the human grant law the power of decision over the human without interrogating that power. When modern law endows itself with the power of humanization, and declares that its absence signals dehumanization, modern law effectively binds the living to the powers of the state. The human is chained to the power of modern state law, not simply because the state’s laws are imposed on the human, but because they decide its status as human. What assumptions about the human enable this magical effect, effectively binding it in a compulsory fashion to the power of the law? How does modern law make possible and activate the moment of decision over the human? Might this decision be precisely what is at stake in the coloniality of modern law? Could this decision, in attempting to mold a human that is always chained to the law,

be part of a legal technology that functions to prevent revolution against the law and to assert state power?

This study is a historical and theoretical account of how the human, in colonial Egypt, arose as it was simultaneously inscribed into the body of modern positive law. In the juridical field of colonial Egypt, the human came into being as the teleology of modern positive law: its absence, law asserted, indicated a state of dehumanization or indeed inhumanity, that is, a state of cruelty, instrumentalization, and depravity.<sup>5</sup> No longer a condition of birth, humanity began to emerge as a juridical category; the human became the effect of the work of the law, that which was to be animated by this work. This animation took place in the life of the individual. Modern law, which took on the government of the living, thus took upon itself the task of this animation. The new, modern legal system instituted in Egypt in 1883 began to interpellate Egyptians and to attempt to recruit them into the position of the human. In this interpellation, the law allocated to itself the power to make decisions as to the presence or absence of the human. The law also decided on the empirical meanings of the human and all that seemed to threaten it. This book theorizes this particular emergence of the human as part of the rise of “juridical humanity.”

*Juridical Humanity* is an examination of this emergence of the human that challenges the protective, determinative role of modern law, along with the assumed relationships among law, colonialism, and humanity. Partially a work on Egyptian legal history but mainly a study of the powers of modern law in colonial Egypt, this book situates modern law, historically and theoretically, at the heart of the colonial enterprise and as one of its constitutive powers. Colonialism emerges as a constellation of forces, and modern law as one of its strategies of conquest and rule for binding the living to the state. Unlike what some studies of colonialism suggest, colonial Egypt was not a zone of lawlessness, of the suspension of juridicality and of exclusionary measures.<sup>6</sup> Further, this book unpacks the meanings of the human as modern law interpellated it, the colonial efficacy of this concept of the human, and the sensibilities of humanness the law attempted to fashion. The book also considers the ethical meanings and political operations of the newly awakened human in relation to history, violence, and nature. At issue is not only the rise of juridical humanity but also the accompanying rise of the new

operations of power—ethical and political—that were central to the colonization of Egypt and to the reproduction of the power of the colonial state.

This, then, is a study of how modern colonial law came to engender a juridical concept of humanity, practice its production, and include Egyptians in its realm. The colonial legal reforms of the late nineteenth and early twentieth centuries claimed to elevate Egyptians to the status of humans and to liberate them from the inhuman conditions prescribed by their “native” rulers. By so doing, legal reform constituted a colonial governmental force that inscribed the human as the teleology of modern law. This inscription, in turn, was directed at prescribing new, modern sensibilities toward pain and at delineating the sphere of useful, legal, and acceptable violence. Prescriptions also included a historical distancing from the past of the khedival state and a renewed relationship with nature, either as a hostile force to be fought or, alternatively, as a site for humanization. The figure of the human and its concomitant sensibilities with respect to violence, history, and nature became a creation of the modern colonial rule of law.

Unlike other studies of colonialism, *Juridical Humanity* does not locate the power and force of colonialism in the dehumanization of Egyptians and the transformation of Egypt into a colony of lawlessness. Nor does the book investigate the dynamics of racialization in Egypt, which was also significant to the colonial encounter.<sup>7</sup> Rather, it investigates colonialism as a constellation of secular modern powers aiming precisely to humanize Egyptians by declaring them subjects of the rule of law. In Egypt, this association between the human and the law would ultimately prove to be the cornerstone of Egypt’s colonization.<sup>8</sup>

The association between the human and the law was not unique to Egypt. It belonged to a broader modern historical dynamic that positivized and secularized the law. Whereas the French Declaration of the Rights of Man and of the Citizen of 1789 clearly linked the human (“man”) to the law, the rise of secular positive law introduced the terms of this bond. With positive law, the human became the “author” of the law and one of its distinctly recognized “persons.” However, this association also brought with it the threat of loss. Once the human became the subject/end of modern secular law, the absence, withdrawal, or suspension of the law gave rise to arguments about dehumanization. Modern law’s authorizing assumption

was indeed that those who have been abandoned to the “state of nature” must be rescued through inclusion in the empire protected by modern liberal law. But is it not possible to conceive of a human who lives outside the protection of the law and in the midst of violence? What way is left to conceptualize those who live outside the law or under threats of violence? How does the liberal equation between modern law and the protection of the human block the possibility of other conceptions of the human? What are the political operations and ethical sensibilities that this equation produces? Finally, what are the characteristics of the modern regime of liberal law that assigned itself this power of earthly humanization?

*Juridical Humanity* sets out to address these questions and to provide a more critical analysis of the presuppositions underlying the liberal entanglement of law and humanity. This study draws from archival research in Cairo and London. The archival material includes jurisprudence textbooks; writings of Egyptian intellectuals and of British diplomats, travelers, and officials; memoirs; court rulings and court records; legislation and policies; correspondence, colonial reports, and the proceedings of commissions; and journal and newspaper articles. In addition to archival sources, the texts under examination include Western legal and political theorists whose writings circulated in colonial Egypt. The colonial career of their writings and the sensibilities they introduced prove significant to the rise of juridical humanity. My concern, to be sure, is not whether these theorists justified or opposed colonialism, but how their thought, articulated irrespective of colonialism, intersected with and contributed to colonial technologies of rule.

*Juridical Humanity* is also a historical and theoretical tale about loss. This loss is double: the historical loss of the *shari'a* system of law, of a different relation to the human and another experience of nature, history, and violence; together with the loss of the human to modern law, when the law laid claim to a monopoly over the power to declare the presence of the human. Both of these losses, however, are incomplete. While this book is first and foremost an account of the powers of modern colonial law, it is also evident in many chapters that these powers never secured themselves entirely. Far from indicating a failure, this incompleteness provides at once an occasion to intensify these powers and a space for competing

ones. The various chapters of this book either point to the crisis of modern colonial law, its paradoxes, or to the persistence of other articulations of the human and other images of the law. Crucially, however, this book does not address the question of whether Egyptians, in general, abided by or fashioned themselves according to the powers of the law. This would be an important and significant inquiry, but it exceeds the scope of this work, which aims to historicize and theorize the powers of modern law as they unleashed themselves and attempted to activate a particular concept of the human.

For any work on the human and colonialism, Frantz Fanon must provide some inspiration, or at least a starting point. He does so here precisely in his refusal to defend the argument that colonialism could confiscate the humanity of the colonized. By this refusal, he also rejects the more general thesis that humanity is a status that can be taken away or given back. This thesis is essentially the one that modern colonial law put forward in colonial Egypt; the only difference is that colonial law in Egypt claimed to humanize, not dehumanize, the Egyptians. Both claims, however, of humanization and of dehumanization, belong to the same understanding of the human—one that takes it as a status capable of being conferred or confiscated by the powers of the colonial state. In both cases, the colonial state emerges strengthened.

In the chapter “Concerning Violence” in *The Wretched of the Earth*, Fanon argues that “decolonization is quite simply the replacing of a certain ‘species’ of men by another species of men.” The assumption here is that man, or the human, always already exists and is not the product of any historical force, including that of violent decolonization. Further, he adds: “Without any period of transition, there is a total, complete, and absolute substitution.”<sup>9</sup> This instantaneous transition is then opposed to a historical process of gradual transformation. There is no discourse of “transition to”; instead, there is a shift—the destruction of the old and the birth of the new. This “new” consists of “new men, and with it a new language and a new humanity.” In Fanon’s analysis, decolonization is “the veritable creation of new men.”<sup>10</sup>

At this point in Fanon’s text, the new man is opposed, in a Hegelian fashion, to the “thing,” or to the old man: “the ‘thing’ which has been

colonized becomes man during the same process by which it frees itself.”<sup>11</sup> There is a tension in the description of the colonized subject: Is he a “thing”? “another species of man”? or is he both? It is the latter option, I argue, that guides Fanon’s inquiry. Later in the text, he directly states that the colonial order “goes to its logical conclusion and dehumanizes the native, or to speak plainly it turns him into an animal.” The power of colonialism, here, rests in the dehumanization of the colonized; its force and violence is uncovered through the term “dehumanization.” But does Fanon argue that the colonizers, by dehumanizing the colonized, turned the colonized into animals or that they constituted them as animals? The difference between the two statements is the following: the first speaks in the words of the colonizers to reflect their approach; the second endows these words with constitutive force. Later in the same passage and in order to establish his point, Fanon cites “colonial vocabulary” that describes the colonized as an animal, only to add: “The native knows all this, and laughs to himself every time he spots an allusion to the animal world in the other’s words. For he knows that he is not an animal.”<sup>12</sup> Fanon makes it clear that this vocabulary is not constitutive. Yet he then adds: “And it is precisely at the moment he realizes his humanity that he begins to sharpen the weapons with which he will secure its victory.”<sup>13</sup>

This “moment of realization” would seem to indicate a point in time that follows a previous point in time when the colonized did think of himself as an animal, as a thing. In other words, it indicates a linear temporality structuring a transition from one recognition to another. But this moment of realization could also be read in nontransitional terms. It could stand for a moment that takes place simultaneously in relation to two other experiences: the awareness of undergoing dehumanization by the colonizer and the recognition of being also a “thing,” an “animal,” indeed a non-human. The insistence on one’s humanity in the first instance is an act of resistance that struggles against that which attempts, but never succeeds, to dehumanize. Or as Fanon writes later, the native “is overpowered not tamed; he is treated as an inferior but he is not convinced of his inferiority.”<sup>14</sup> The insistence on one’s humanity in the second instance is an act that accounts for the nonhuman in the subject but also recognizes the human. The final transformation of the colonized, the replacement of one species

of men by another, therefore, does not consist of humanization. Humanity is always already posited as a starting point in *The Wretched of the Earth* and as accompanying the nonhuman in every human.

Fanon traces the colonial vocabulary that attempted to dehumanize the colonized. In the process he reveals that the status of humanity could not have been confiscated, even by colonialism, because the nonhuman coexists with and within the human. *Juridical Humanity* traces an opposite move: how the colonial state attempted to juridically humanize the colonized, and in so doing how it also revealed how humanity came to be thought of as something that could be confiscated or allocated. Fanon would not, perhaps, have agreed that operations of juridical humanization were constitutive of the colonial state; his critique is aimed at how the colonial state assumed powers of dehumanization. Indebted to his analysis nonetheless, *Juridical Humanity* provides an examination of how the colonial state assumed the powers of humanization. Crucially, both approaches point to the operations of colonial power unleashed by the negotiability of the human—that the human is also a nonhuman.

This negotiability of the human is one characteristic of juridical humanity. But “juridical humanity,” to be sure, is a concept that was not present in the historical sources of Egypt’s colonial history. As explained in chapter 2, where I develop this concept, “juridical humanity” is deployed to theorize the human as it came to be entangled with modern law in colonial Egypt. This concept rearticulates Hannah Arendt’s concept of “juridical personhood,” while it also departs significantly from it. In her account of what she terms the Nazi state’s dehumanization of the Jewish population in *The Origins of Totalitarianism*, Arendt posits that the first step toward total domination consisted in the “murder of the juridical person.”<sup>15</sup> The murder of the juridical person in her analysis necessitates the destruction of rights: “The destruction of man’s rights, the killing of the juridical person in him, is a prerequisite for dominating him entirely.”<sup>16</sup> Juridical personhood is not simply a status conferred by the law; juridical personhood belongs to every person, as a condition of birth. Rights belong ontologically to every person. What is crucial for the purposes of this book, however, is Arendt’s argument that the murder of juridical personhood contributes to the loss of the human. In this sense, for her, every human is a juridical person. The



loss of the latter, or the loss of rights, results in some loss of what is human. The juridical person and the human therefore overlap in her account. The human is always already juridical, in the sense of being endowed with rights; stripping away the juridical is one step toward dehumanization.

Thus, the concept of the “juridical human” draws on Arendt’s articulation, while stretching it in order to suggest that colonial law not only produced an overlap between the human and the “juridical person” but also collapsed the former into the latter. “Juridical humanity” is the product of this collapse. Further, while Arendt finds the juridical person to be a condition of protection, this account of the colonial history of Egypt finds juridical humanity to be a technology of colonial rule. In this way, the approach to the law guiding this book differs significantly from Arendt’s. As further developed in chapter 2, if she finds exclusion from the law to be a precondition for violence, the colonial history of Egypt reveals how inclusion in the law was a colonizing force engendering its own formations of violence.

*Juridical Humanity*, then, departs from Arendt’s account of the law and her positing of the death of the juridical person as a force of dehumanization. Instead, the colonial history of Egypt reveals the birth of juridical humanity as fashioning a figure of the human, always already entangled with the law and included in it. This birth was constitutive of colonization and of particular formations of violence. Moreover, the overlap between the juridical person and the human, unlike in Arendt, is not assumed here to be ontological but is articulated as a historical force, one that chained the human to the juridical and worked to foreclose other scenarios for the human.

This book, however, is not limited to an account of the human, law, and colonialism in general. The particular history of Egypt is a force impelling this account. The loss engendered by the rise of positive law and the legal sensibilities to which it gave birth are central concerns. This book therefore follows, albeit in an indirect way, the intellectual project of Egyptian historian Khaled Fahmy, whose writings on Egyptian legal history aim to recover the khedival legal order that existed prior to the rise of positive law in the colonial era. While this historical account refers only incidentally to khedival legalities in order to clarify what distinguishes them from colonial legalities, Fahmy’s project is central to the effort to

explain how the khedival, and more generally the Ottoman, legal order came about.<sup>17</sup> If Fahmy recovers the khedival legal order, then, *Juridical Humanity* highlights the powers of modern law that ventured, in colonial fashion, to displace that order. The work of Talal Asad here proves significant in narrating the conquest of Egypt and elsewhere by modern colonial powers. His analysis of the rupture brought about by the positivization of the law in colonial Egypt is the inspiration for this book. Furthermore, crucial to this study is Asad's analysis of how modern powers, humanist sensibilities, and definitions of what it means to be a proper human have universalized themselves and unleashed destruction on the old in the name of the progress achieved through the modern.<sup>18</sup>

Of central concern, however, in addition to loss, are present-day problems that continue to have their roots in the tradition of positive law. Egyptian jurist Tariq al-Bishri highlights such problems and connects them to the late nineteenth century. He argues that one of the forces contributing to the crisis of Egyptian law was the combination of foreign economic and political conquest with the accompanying infiltration of Western legal cultures under the banner of reform. Describing these laws as foreign and imposed, al-Bishri proceeds in his examination of the postcolonial era to argue that this historical process culminated in making the law "external," constituting "one authority in the face of individuals," who are alienated from it: "The law no longer consisted of order, rules and livelihood, adjudicating the relationship between the people through their direct relationship and living human connections, as well as through collective entities that grant them the feeling of belonging and human association."<sup>19</sup>

I leave aside the question of whether one can imagine the other modern law al-Bishri invokes to criticize the contemporary legal system as it has developed since the nineteenth century. His comments about current state law, however, reveal a relationship of bondage between state law and Egyptians. Juridical humanity was partly responsible for the formation of this relationship of bondage. Juridical humanity chained the human to the law and to the state, and offered no external legitimation for doing so. The law was far from being an external force; it attempted to infiltrate the human, to constitute it, and by doing so it endeavored to leave no space for the law that al-Bishri posits as an alternative. Modern positive law colonized

Egyptians by turning their humanity into law's own teleology. It takes a particular kind of rebellion, not just any rebellion, to break these chains.

*Juridical Humanity* comprises six chapters that investigate law and the human in relation to history, nature, sovereign power, and violence. The focus is on nature, sovereign power, and violence because these came to assume the position of the others with respect to the human and the modern rule of law during this period in Egypt. The query into history identifies the rise of juridical humanity as partly the product of a historical consciousness that distinguished the modern colonial from the precolonial. But ultimately the book points to the historical impossibility of these distinctions as they were demarcated. It consequently locates the juridical human inscribed in nature and in violence, traces the particular details of these inscriptions, and points to the persistence of some traces of the precolonial in the colonial as well as their reconfiguration.

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Chapter 1, "Conquest," is an account of the coloniality of the codes, institutions, and textbooks of the new positive law as well as the legal profession that came to govern Egypt, replacing the Ottoman-khedival order. The chapter offers some background about the law in colonial Egypt that would give birth to juridical humanity. The coloniality of the law is found in the forceful elimination of past legal traditions, in the conquest not only of a territory and its inhabitants but also of the past. Colonial law emerges as a force productive of historical sensibilities that destroyed a remembered past and in turn intensified the present of the colonial, its ways of knowing and living. To detail this coloniality, I examine legal-historical writings concerned with the past as well as with the discipline of history. These writings generated a law that constituted a historical force. The law itself historicized the past of Egypt and relegated it to a different territory. I also probe legal reform practice and its interpretation as it unfolded through the professional legal class, both of which reconfigured Egypt's relationship to its past and future. This reconfiguration intertwined with the temporality of legal-historical writings. When the past no longer constituted the groundwork of legal theory and action, the present ceased to be a moment that constituted an addition to what had already taken place, becoming instead a time

that generated its own citability. The coloniality of positive law consisted both in its lifting the weight of the past and in the resultant arbitrariness of the law once it, together with the present to which it belonged, began to evolve cyclically and to constitute its own ground of legitimation. The chapter concludes with another text from the colonial era, whose author defied the historicizing effect of positive law while advancing a law that was also grounded in joint temporalities rather than historicized discrete eras.

Chapter 2, “Conscripts,” introduces the concept of “juridical humanity” and relates it to the historical-juridical consciousness charted in chapter 1. In this chapter I investigate the colonial career of the human in relation to the law by examining key colonial legal powers—doctrines and practices—directed at elevating Egyptians to the status of the human. Targeted populations included peasants, laborers, and prisoners. Through the examination of legal texts, philosophical writings, and reform practices, the human emerges inscribed as the teleology of modern law. I argue that this juridically effected inscription and inclusion in universal humanity, and not exclusion and dehumanization, were constitutive of the colonial state. Claiming to be distinct from the inhuman, modern positive law assumed the power to humanize. The category of “the person” within positive law enabled such a declaration and inscription. The innovation of juridical humanity arose from the figure of a self-present, bounded human; the absence of the autonomous human, together with the inhuman, constituted the other of the human. Through an examination of a series of legal reforms, the inhuman emerges as having been preserved in the human. The human, in turn, materializes as the excess that remains in the law, and is therefore produced by it, after the expulsion of exploitative practices that the law declared inhuman. The chapter also recovers from Egyptian history a different concept of the human, one that did not follow the logic of juridical personhood. Mystical yet modernist, this other articulation of the human took itself to be part of a larger substance including the organic and inorganic—stars, rocks, and plants—and extending beyond death. This other articulation of the human could not have rendered itself useful to colonizing operations.

Chapter 3, “Wounds,” traces specific humane legal reforms that directed themselves at the elimination of acts defined as cruel against crimi-

nals and animals. Under investigation is the human denominated by these reforms, the sensibilities regarding suffering deployed by the reforms, and the violence that persisted in their midst. Through an examination of prison reforms, I argue that the project of juridical humanity put pain and suffering to use: the reduction of suffering became instrumental to increasing pleasure. Importantly, becoming human through the law came to be equated with the reduction of suffering; excessive suffering signaled dehumanization. Locating suffering on the side of the inhuman, colonial powers carved out a space for their own intervention. The human became the telos of humaneness as ordered by humane legal reforms and the broader project of juridical humanity to which they belonged. This chapter also begins a discussion of the relationship between the human and nature, by examining reforms directed at alleviating the suffering of animals. Egypt witnessed the introduction of criminal legislation defining certain acts of violence to animals as cruelty, penalizing these acts, and forcing Egyptians to become more humane on the way to becoming “properly human”; excessive suffering not only dehumanized its victims, but its infliction also dehumanized its agents. I also argue that the human implied by these reforms is one who learned how to define and distinguish between humane violence and inhumane cruelty against fellow Egyptians and animals. Legal reform cemented an association between humans and animals that challenged the bounded characteristics of the human. And finally, the chapter attends to the violence that persisted in the midst of and during these humane reforms, against both animals and prisoners. The very law that defined and prohibited cruelty also authorized other types of violence. The project of juridical humanity did not aim to erase violence but rather to prevent unproductive, disproportional violence. These other types of violence became figured as “humane.”

Chapter 4, “Battles,” develops the theme of the human-nature relationship introduced in chapter 3 and inquires into the coercion of human labor in its encounter with nature. As in chapters 2 and 3, I continue to explore the theme of violence while focusing on questions of peasant labor, touched upon briefly in chapter 2. Recounting how insects attacked the cotton fields of Egypt, threatening the cultivation of cotton for world markets, the chapter documents the legal-scientific war waged against these insects

and the penalizing measures introduced by the colonial state against peasants who failed to become conscripts in that war. The chapter probes the meanings of nature and the human that were engendered in the course of this war and the characteristics of human labor enforced by the colonial state. These penalizing measures are compared to other agricultural reforms that sought to rid peasants of their suffering by prohibiting the use of the whip and regulating the institution of forced labor. The management of labor became no longer a state concern, and labor was relegated to the domain of private property. The question guiding this chapter's inquiry is, how did these two sets of legal interventions, one regulating the use of force against labor and one penalizing labor, coexist in the colonial history of Egypt? I argue that humane reforms minimizing the unfreedom of peasants took no account of and thus excluded free wage labor. At the same time, the penalization of free wage laborers did not seem to contradict humane reforms because colonial penal law purified itself conceptually from force and unfreedom—the seal of the inhuman in relation to labor. But the penalization of peasants also revealed another cultivation of the human: if they were to exhibit the characteristics of human labor, peasants had to fight the forces of nature. These agricultural/penal legalities then demonstrated a concept of the human that placed it in opposition to force and unfreedom. And yet, in the colonial history of Egypt, force remained a central player: the colonial state continued to practice force through the institution of penal law. Penalized labor no longer revealed the persistence of unfreedom in a state that regulated forced labor but excluded free labor from its purview. Law in colonial Egypt could claim that it only sanctioned free labor and that it, the law, opposed force. But since this force that it opposed included the forces of nature, the law unleashed its own force to fight them. The juridical cultivation of human labor among the peasants, recruited for the production of cotton for the British and other world markets, took place in the fields of forced battle.

As peasant laborers were one of the main groups targeted for humanizing reforms, I continue in chapter 5, “Red Zones,” to explore the question of the peasantry and their relation to the new regime of law. The focus here shifts to the liberal characteristics of the new state law that distinguished itself from the khedival legal order, while promoting the

liberal doctrine of a “government of laws, not men.” Specifically, I examine the consolidation of a regime of private property, which consisted in the privatization of large estates where peasants cultivated cotton for the British and world markets and lived under legalities constituted and executed by these estates’ private owners. Under consideration is the colonial fate of the privatized estates in relation to their history when one sovereign, Khedive Isma‘il, and his family, owned most of the plantations. The colonial privatization of violence against peasants in cotton plantations resulted in the exclusion of that violence from state law and the formation of a purified conception of state law and a rule-of-law regime. This exclusion stood in opposition to a precolonial regime of sovereignty that recognized its own violence and included all estates in the sovereign’s law. Meanwhile, “juridical humanity” did not regulate privatized violence but rather willed it out of the state’s existence. Such “humanity” produced and exacerbated more unregulated violence on private plantations. But the distinction between the private and the public is not taken for granted; instead, the chapter recovers privatized violence and reinscribes it into state law and the project of juridical humanity. Through a reading of several criminal murder investigations on the estates, the rule of law emerges as something other than a set of abstract, universal rules, opposed to sovereign power. Rather, sovereign power, as it was rearticulated during the colonial era, became functional to the regime of the rule of law. Colonial modern law, therefore, is better described as a map containing multiple legalities. Similarly, the colonial state comprising the estates consisted of regional forms of power, of landed zones of subjugation that were less and less juridical but at the same time constitutive of the law now understood in the plural. The meanings of juridical humanity shift once again with this account. If the estates, with their violent technologies of labor management, engendered state law, then the human that the law claimed to protect was equally contaminated. Juridical humanity now appears as a site of productive suffering and not the eradication of suffering.

Chapter 6, “Crisis,” continues to trace the characteristics of the colonial liberal legal regime, this time in relation to legalities the British colonizers articulated as excessive. These include military tribunals, the Commissions of Notorious Criminals, and martial law. The chapter reads a series of Brit-

ish archival sources debating the necessity and legality of these forums. But rather than focusing on how these legalities operated in a typical colonial fashion to exclude the colonized from the general law by enacting exceptional violence against them, I examine what these legalities reveal about the hybrid nature of modern colonial law, in particular in relation to its ideal and factual elements. The debate among British colonial officials on whether or not to resort to these exceptional measures highlights an additional colonial technology of rule, one that split the hybrid world of the law and the world of humans between the ideals of humanity and the fact of colonial violence. This split was fragile because the law and the world were characterized by hybridity, not pure oppositions. Further, efforts to protect the ideal elements of the law by deploying law's violence against rebellion, vengeance, and criminality only revealed the fragility of this split. The result was recurring crises and renewed splits. Both the split world and its untenability constituted a technology of colonial rule. It follows that such a technology, joining humanity and violence, cannot be criticized from the grounds of the ideals of humanity and the rule of law; these ideals, purified from the fact of colonial violence, were themselves implicated in colonial rule and led to the ensuing hybridity. Like the grounds of its birth, the juridical human was also made to split itself by purifying its ideals from the fact of violence and hence to engage in a struggle against violence in the name of its ideals. Crucially, this struggle was also against the violence of nonstate actors claiming competing sovereign power, therefore solidifying the bond with the modern colonial state and its positive law. Juridical humanity, then, was an institution that engendered its own colonization.

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Law, in colonial Egypt, gave birth to a juridical human that was supposed to exist in the presence of a particular legal regime—positive and liberal, singular and universal, autonomous and abstract. Promoting itself against what it articulated as the violence of the khedival legal order and its inhumanness, colonial law detached itself from the checks of the past and established its authority in its own present. This was law's first arbitrary procedure. The law then inscribed the human in the body of its rules, which indicated the rise of a new system of bondage whereby the



law decided on the presence or absence of the human. This second arbitrary procedure gave the law a power that was limitless and magical. In claiming to humanize the colonized, this law decided on the distinction between humanizing suffering and dehumanizing pain, thereby enabling the persistence of violence. The law claimed to free itself from force, even as it reintroduced force in the form of penalized/forced conscription for battles and wars. Not only were Egyptians forced, but they were also forced to fight force: force lost its distinctiveness. Meanwhile, appearing as a singularity, this law relied on multiple forms of sovereign power that it simultaneously disavowed. These forms enacted private violence that was left unchecked. Invoking ideals of humanity, the law's exercise of violence became ever more necessary. Operations to shield humanity came more and more to resemble storm operations against Egyptians.

Juridical humanity, with its claims of overcoming a despotic past, was from start to finish a concept productive of subjugation to the state and its law. To escape bondage, to introduce a different concept of the human, or to abandon the human as a political concept, rebellion and continuous struggle may be the only course. But this will depend on the practice of rebellion and of struggle; struggles and rebellions may only end up reproducing the sovereignty of the state and its positive law. And yet, some rebellions and struggles carry the potential to introduce new texts and practices for losing the human in politics, or articulating other concepts of the human, while challenging the texts and practices of state law. While this book addresses rebellion and political struggle in the history of Egypt only briefly, in chapter 6, one of the challenges of *Juridical Humanity* is to clear a space beyond the juridical to think about both the human and politics. Enacting other possibilities for articulating the human, or abandoning the human as a central category for modern politics, are possible consequences of interrogating juridical humanity. The interrogation undertaken in this book is in some sense an opening of a space for rebellion and struggle: for texts, events, and practices that articulate another concept of the human or lose the human in politics. But the colonial history of Egypt as recounted in the following pages can tell us less about that.