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Sacred distinctions: Law and the political regulation of Sikh Gurdwaras in British Columbia

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Abstract
Since the 1990s, a sizeable body of case law has formed in the Canadian province of British Columbia in response to disputes over the political leadership of local gurdwaras, the name for Sikh places of worship and assembly. Although the disputes stemmed from religious and political disagreements, the legal issues addressed by the courts concern the proper bureaucratic administration of Sikh institutions that have been legally incorporated as nonprofit "societies." Through a textual analysis of 55 legal decisions related to gurdwara leadership disputes, this article explains how the courts have decided these cases without ceding the pretense of secular neutrality by mobilizing a series of shifting discursive distinctions between religion, politics, materiality, civil society, and bureaucratic procedure. Building on critical secular and sociolegal theory, this article tracks how law is able to establish and extend the state's jurisdiction over Sikh practices and populations through its capacity to inscribe and delimit the social and political parameters of religion. It illustrates how this case law serves as a mechanism of racial governance by extending forms of surveillance and legal intervention that work to embed the diasporic practices of Sikh communities within the spheres of Canadian state power.

INTRODUCTION

Over the last 30 years, courts across the Canadian province of British Columbia (BC) have rendered more than 50 judgments in cases related to the disputed political leadership of local gurdwaras, the name for Sikh places of worship and assembly. The vast majority of these cases have been instigated by different groups of Sikh litigants with competing visions of the religious and political futures of

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gurdwaras and Sikhi[1] more generally. These leadership disputes have become part of the court's jurisdiction insofar as they concern alleged irregularities in the organizations that govern gurdwaras. The courts have assumed and negotiated this jurisdiction through different permutations of the Societies Act,[2] legislation that specifies the rules and regulations for nonprofit groups that have been legally incorporated as "societies" with the province of BC. In the case law on gurdwara leadership, the litigants have alleged an array of bureaucratic infractions that concern the proper governance of the societies: irregularities in their membership lists; the lack of sufficient notice for their Annual General Meetings; and improprieties in gurdwara elections. When these allegations are validated, courts have legal powers of redress to intervene in the internal affairs of these Sikh organizations, interventions that threaten to undermine the court's professed reluctance to address matters of religion.

In this article, I explain how the case law has expanded the secular state's jurisdiction over diasporic Sikh populations by affording law the capacity to decide and refigure the social and political parameters of Sikhism. Drawing on recent work in critical secular theory (Connolly, 1999; Mahmood, 2015; Mandair & Dressler, 2011), this article shows that, within the case law, distinctions between religion, politics, culture, and economics are neither consistent nor self-evident; rather, as my analysis demonstrates, religion only acquires its semblance of coherence as an object of law through a shifting patchwork of discursive distinctions between the sacred and mundane, tradition and democracy, and habit and procedure. Through a discourse analysis of the case law related to gurdwara leadership disputes, this article documents how law has expanded and augmented its authority over local Sikh populations through its capacity to establish and ultimately delimit the civic and ontological parameters of religion, which are used to mark the boundaries of its jurisdiction. It is this inscriptive authority that gives law the capacity to decide how Sikh populations are positioned as religious and racialized minorities within the normative and institutional auspices of a secular civil society.

Although this case law concerns a specific religious minority, its complex political effects offer a useful vantage point to identify and conceptualize new relationships between religion, law, and racial governance. As recent sociolegal research attests (Moustafa, 2018; Sezgin & Kunkler, 2014), ostensibly secular state institutions have expanded their jurisdiction over religion through processes of judicialization, which Moustafa (2018, p. 686) defines as "the circumstances wherein courts are made to adjudicate questions and controversies over religion, thereby authorizing an 'official' religion and/or rendering judgment on the appropriate place for religion in the legal and political order." To expand the analytical terrain of sociolegal studies, this article explains how the judicialization of Sikhism has occurred through recursive interactions with the statutory authority of the Societies Act and the legal maneuvering of Sikh litigants, who have enjoined the courts to resolve ostensibly "intra-religious" disputes under the auspices of participating in a secular civil society. By foregrounding the legal effects of the litigants' discursive practices, my analysis does not intend to diminish the scope of law's inscriptive authority, but, rather, show how it is amplified and extended through the determinate ways in which litigants enjoin law to decide the religious, political, and ontological parameters of Sikhism.

Reckoning with the specific effects of this case law also necessitates developing novel ways of analyzing how law's inscriptive practices can serve as mechanisms of racial governance. Racial governance refers to the means by which state actors and institutions differentiate and regulate people

[1]The term Sikhi comes from the Punjabi word *sikhna*, which means "to learn." According to Mandair (2013, p. 3), "unlike Sikhism, the word Sikhi does not connote an object or thing. Rather it has a temporal connotation and refers to a path of learning as a lived experience." In this article I use the term Sikhi to refer to the broader set of ideas and practices associated with this religious and cultural institution and Sikhism to denote how Sikhi figures as an object of law and state power.

[2]In British Columbia, incorporated voluntary associations have been governed by different versions of a Society Act since the late 19th century, including the Benevolent Societies Act (1891), the Societies Act, SBC (1920), the Societies Act, SBC (1947), Societies Act, RSBC (1960), Society Act, RSBC (1996), and the Societies Act, RSBC (2015). The vast majority of the cases analyzed in this article concern violations of the two most recent versions of this legislation; as I explain later, the changes affected by the newer pieces of legislation have not figured prominently in the litigation surrounding gurdwara leadership disputes.

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according to fabricated taxonomical differences between them, differences that are the basis for discrepant practices of surveillance, incarceration, and state violence (Goldberg, 2002; Hesse, 2004; Mawani, 2009; Stoler 1995). Since the 1980s, Sikh and South Asian populations in BC have been subject to racial practices of surveillance and legal intervention in response to growing concerns about violence attributed to local Sikh separatist organizations, which sought to create a sovereign Sikh nation-state in Punjab known as Khalistan. Set against these concerns, the intra-religious conflicts and diasporic commitments of some Sikh communities have been engaged as limits to Canadian state authority, engagements that are to be disciplined and absorbed by the normative infrastructures of civil society. This article contributes to the growing scholarship on racial governance by documenting how racial practices of surveillance and state intervention have recurrently positioned law to decide and delimit the religious, diasporic, and political parameters of Sikhism, thereby expanding the scope of the state's authority over Sikhs as religious and racialized minorities.

The remainder of this article is divided into four sections. Section 2 details the historical context and methodological framework that guided my analysis of the case law on gurdwara leadership disputes. Upon establishing how local Sikh communities emerged as a distinct racialized group, this section describes the process through which I generated data from the case law and analyzed it using critical theories of law, religion, and racial governance. In Section 3, I explain how law has decided the civic and political parameters of Sikh institutions. It pays particular attention to how the court's inscriptive practices have been mediated by the legal form of societies, which disaggregates religion from politics and expands the state's jurisdiction over the social and political realms of Sikh and South Asian populations. Section 4 examines how this case law has established certain ontological parameters for Sikhism, deciding the boundaries of its religious dimensions as they are extricated from the realms of materiality. I track how the courts interpret and arbitrate the discursive practices of the litigants, prioritizing the political grammars of private property and civil society in a manner that delimits the autonomy of Sikh practices and institutions. Finally, the article concludes by explaining how this case law offers novel vantage points to understand the conditions and parameters of law's authority over religious and racialized minorities.

HISTORICAL AND METHODOLOGICAL CONTEXTS

The sizable Sikh and South Asian communities in BC have been shaped by unique histories of racial governance and political mobilization. As of 2016, South Asian populations represented the second largest visible minority group in the province, roughly two thirds of who reported Sikhism as their religious denomination (Statistics Canada, 2017).[3] Sikh and South Asian communities in BC predate others in Canada that formed amidst changes to immigration laws after World War II (Nayar 2004). In coastal regions of BC, Sikh, and South Asian communities emerged in the early 20th century when young Punjabi men arrived from other regions in the British Empire, most often departing from ports in India, Malaysia, and Hong Kong (Mawani, 2018). A half-century earlier, the British East India Company had annexed Punjab via military force, precipitating decades of emigration from the region as Sikh and Punjabi men moved through circuits of war, commerce, and law enforcement (Axel, 2001). By 1908, racial concerns about the growing number of people migrating from India, China, and Japan instigated legal changes that dramatically curtailed immigration from the Indian subcontinent (Johnston, 2014). Racial immigration and citizenship laws, which persisted in more manifest forms until the 1960s, have had enduring effects on local Sikh and South Asian populations, limiting their growth, restructuring Punjabi family forms, and reworking their conditions of civic and political action (Buffam, 2018; Indra, 1979; Mawani 2012; Nayar, 2012). Across these different periods, local Sikh communities have been embedded in diasporic political processes

[3]In 2016, 365,705 residents of BC identified as "South Asian," which represents 8% of the total population. Residents identifying as 'Chinese' represent the largest visible minority group in BC (Statistics Canada, 2017).

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that span multiple geopolitical scales (Dusenberry, 1981; Nijhawan, 2016). Throughout this article I cautiously deploy the term diaspora to conceptualize two aspects of the political circumstances of local Sikh communities: (1) the experience of economic and political displacement from the places they regard as a homeland; and (2) an engagement by different religious and political institutions that are not reducible to the scale of the Canadian nation-state (Axel, 2001; Nayar, 2012; Nijhawan, 2016; Tatla, 1999).

Since the 1980s, local Sikh and South Asian populations have been subject to intensified surveillance, scrutiny, and legal intervention as they have been implicated in different patterns of criminal and political violence. On the one hand, the rise of gang violence attributed to young South Asian men has inflamed concerns that ostensibly "Indo-Canadian" neighborhoods are succumbing to crime and lawlessness (Buffam, 2018; Frost, 2010; Johal, 2007); by 2006, a poll showed that Vancouver residents were more likely to blame crime on "East Indians" than any other "ethnic group" (Buffam, 2018). On the other hand, local gurdwaras have been associated with diasporic Khalistani movements that sought to create an independent Sikh nation-state in Punjab. These movements were galvanized by the Indian military's siege of the Golden Temple in Amritsar and have been blamed for the bombings of two Air India flights in 1985. The protracted public investigations into the bombings forced some state institutions to reckon with the limits of their authority over the political affairs of local Sikh communities; these agencies had little facility with the Punjabi language; demonstrated only cursory understandings of the politics regarding Sikh separatism; and, in some instances, showed difficulty differentiating between turbaned Sikh men (Buffam, 2020; Failler, 2009; Major, 2010). As local gurdwaras were embedded in Khalistani struggles, the elections for gurdwaras acquired different political overtones (Nayar, 2008). Of course, there have existed theological and political divisions within and between local gurdwaras before these movements; yet, over the last 30 years, these disputes have acquired new legal and political forms as courts have been tasked with addressing allegations of defamation in local media; incidents of violence against public critics of Khalistani militancy; and disputes over the leadership of local gurdwaras. By the late 1990s, many of the disputes were framed by disagreements over the presence of tables and chairs in langar, the name for the area of gurdwaras where communal kitchen is served to all visitors regardless of their religion, caste, or class position. Traced to the founding of Sikhi around the turn of the 15th century, the practice of langar has symbolized the repudiation of social, religious, and political hierarchies (Mandair, 2013).

My concern with these gurdwara disputes came out of a larger research project that tracks the changing political circumstances of Sikh and South Asian populations in BC, attending to how they have been differently positioned as religious and racialized minorities since the end of World War II. The data for this larger project have been generated from legal decisions, local media, observational research as well as documents and oral history interviews gathered from six different archival sites. In analyzing this larger body of data, one of the principal changes I identified is the augmented role that law has played in the social, religious, and political conditions of local Sikh communities.

To document how gurdwaras have figured as one node in these changing configurations of legal authority, this article analyzes media and legal texts related to the gurdwara leadership disputes that have been decided by BC courts. Local newspaper coverage of the disputes was collected through a searchable online database to gain a sense of how the conflicts were mediated in public forums as well as how the litigants' positions have been articulated to different audiences. The different versions of Society Act legislation in BC also served as a source of data because they set the statutory terms through which gurdwaras are legally governed as institutions within civil society. Particular attention has been paid to the specifications for what constitutes a society under each act; the requirements for societies to remain in compliance with the legislation; and the powers that courts are granted to evaluate and address violations of these requirements. Although each version of this legislation affected slight changes to the legal terms of societies, these changes did not play a significant role in the litigation of the leadership disputes nor did they affect their noticeable spike in frequency in the 1990s. Instead, as I explain later, the society's legal form, which has existed across this

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legislation, positions courts as the arbiter of intra-religious conflicts amidst broader historical changes that have made Sikh communities the object of surveillance and legal intervention.

Yet, the primary source of data for this article is the large body of legal decisions that concern alleged infractions of the Society Act by the associations that run gurdwaras. These decisions span 55 judgments from the three tiers of provincial courts in BC that administer this legislation. Because these decisions do not form a single body of case law, I identified and located them through databases hosted by the Canadian Legal Information Institute (CanLII) and the Provincial Court of BC, where I searched the names of the societies that run gurdwaras in the province. Although 12 different gurdwara societies are named as litigants in these decisions, roughly 60% of the cases concern gurdwaras in municipalities of Metro Vancouver, which reflects its geographic centrality to the region's Sikh and South Asian communities (Nayar, 2012). As sources of data, the legal decisions vary in length and the extent of their legal and historical exposition. While 5 decisions exceed 30 pages, 32 of the 55 rulings are less than 10 pages in length but still devote considerable narrative detail to the legal and religious histories of the dispute(s) and to the exact kinds of authority that are legally afforded to the societies.

The cases that I have analyzed were decided between 1982 and 2018, although nearly 70% of them were issued after 1997. It was in 1998 that the matter of furniture in langar first entered the jurisdiction of the courts, which often multiplied and intensified the disputes over gurdwara leadership across BC. Only a few of these cases directly concern the presence of this furniture; across the whole body of case law, the vast majority of the decisions are related to alleged procedural infractions in the political and bureaucratic governance of gurdwaras. As I explained in the introduction, these infractions include improperly maintained membership lists; irregularities in adherence to Robert Rules of Order during executive meetings; and insufficient notice for annual general meetings. Elsewhere I analyze this case law to explain how the courts have mobilized tactics of bureaucratic surveillance to evaluate and discipline the internal workings of gurdwaras (Buffam, 2019). This article is primarily focused on the specific moments in the case law when the courts and the litigants actively negotiate and establish the parameters of law's jurisdiction over gurdwaras and Sikhism more generally, which affords law the authority to compel Sikh actors and institutions to account for their religious and political conduct.

In the wake of the disputes over langar furniture, the courts have used and formalized categorical distinctions between the different groups of litigants, whom are almost uniformly identified as "moderates" and "fundamentalists" or "traditionalists." These categories acquired shifting, often imprecise meanings as they have been repeated across legal and media forums, typically in a manner that obscures the different, sometimes divergent religious and political commitments within the groups of litigants. The litigants' positions on langar furniture and gurdwara politics do not consistently cohere with their age or class positions. When the disputes over langar furniture began, traditionalists were generally associated with newer generations of immigrants than the moderates, whose position was often based on its long-standing presence in BC gurdwaras. In the rare instances when the categories are used as self-identifiers, it is by litigants who are using them to render their positions intelligible within the broader legal and public realms. In the protracted media coverage of the disputes, there has been repeated slippage in how the term fundamentalist is used to refer to (1) a religious outlook wedded to certain visions of Sikh tradition and orthodoxy; (2) political support for an independent Sikh nation-state; and (3) a procedural commitment to excluding tables and chairs from langar. Yet, as Nayar (2008) documents, those opposed to langar furniture have expressed varied religious outlooks and levels of political support for a sovereign Khalistani state. In the case law, references to fundamentalist litigants were eventually supplanted by the term "traditionalists," which more narrowly references a group's stance regarding gurdwara procedural affairs.

The moderate category that is used to classify many of the other litigants also lacks indexical precision, in part because the term was inherited from the lexicon of Khalistani politics wherein it named those opposed to nationalist violence or the creation of a Sikh nation-state altogether. In legal and media texts about the leadership disputes, the term "moderate" generally refers to groups who

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have tried to retain langar furniture, although the manner in which it is used often represents the litigants in terms of liberal religious and political outlooks that are valued and cultivated under normative visions of secularism (Mahmood, 2006). Given the fluid, imprecise boundaries of these terms, I approach the categorical distinctions between moderates and traditionalists not as coherent religious and political standpoints but, rather, as an effect of the juridical processes of categorization that are a principal focus of this article.

My analysis of these data draws on critical theories of law, secularism, and racial governance to explicate these processes of categorization as well as their effects on the political dimensions of local Sikh institutions and populations. Following critical secular studies, I do not presume that religion and Sikhism have stable categorical boundaries within the case law or the discursive practices of the litigants (Hussin, 2007; Keane, 2007; Mandair, 2009; Mandair & Dressler, 2011; Moustafa, 2018). Despite its pretense of universal validity, religion is a historically contingent category that has fluid and contested parameters (Asad, 2003; Masuzawa, 2005; Moustafa, 2018). It was in the 19th century that Sikhi started to become intelligible as a religion (i.e. "Sikhism") when it was translated into Christian conceptions of religion by British colonial authorities, European philologists, and Sikh reformers (Ballantyne, 2006; Mandair, 2009; Oberoi, 1994). In the disputes over gurdwara leadership, Sikhi acquires and maintains this guise of a religion through processes of "religion-making," which Mandair and Dressler (2011, p. 3) characterize as,

> the reification and institutionalization of certain ideas, social formations, and practices as "religious" in the conventional meaning of the term, subordinating them to a particular knowledge regime of religion and its political, cultural, philosophical and historical interventions.

In analyzing the case law, I track how law's jurisdiction over gurdwaras and Sikhism more generally is established and expanded through the discursive practices of the courts and the litigants, practices that posit the categorical boundaries of religion through shifting distinctions with politics, culture, materiality, and civil society.

To document the effects of this case law, my analysis also draws on sociolegal theory that attends to law's inscriptive authority, its capacity to shape, produce, and transform the ontological parameters and material conditions of the people, places, and realities it is purported to govern and adjudicate (Cover, 1986; Dayan, 2011; Esmeir, 2012; Moustafa, 2018). By virtue of the state's capacity to wield legitimated violence, its legal institutions are given the authority to manifest the social taxonomies they recognize and sanction (Dayan, 2011). In analyzing the case law, I use theories of this inscriptive authority to explicate the discursive practices through which the courts assume and project taxonomical distinctions between religion, politics, and civil society, documenting novel contexts and grammars of religion's judicialization (Moustafa, 2018; Sezgin & Kunkler, 2014). Yet, as Cover (1983) explains, courts and other juridical institutions do not exhaust all of the possible readings and narratives of a given legal order. Writing of religious minorities in the United States, Cover (1983) stresses that nonstate communities are capable of undertaking relatively autonomous *jurisgenerative* practices, generating meanings about legal and normative orders that differ and diverge from those authorized by the state. It is through the coercive powers of the state that courts are able to exercise their *jurispathic* capabilities, sanctioning certain normative orders and circumventing others. This article pays particular attention to how the courts have evaluated and arbitrated the varied jurisgenerative practices of the litigants, practices that afford different modes and measures of normative authority to Canadian legal institutions as well as to Sikh practices, principles, and institutions.

To account for the social and political effects of the case law, this article is also informed by critical theories of racial governance that reveal the relations of state power that determine how people are differentiated and regulated according to fabricated taxonomical differences between them.

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These distinctions have been defined according to various vocabularies of biology, aesthetic, culture, religion, and history, which shape the differential ways in which people have been affected by surveillance, legal intervention, and state punishment (da Silva, 2008; Goldberg, 2002; Hesse, 2004; Hesse, 2007; Mawani, 2009). In analyzing the case law, I track how law's inscriptive effects have unfolded within racial relations of governance that subject local Sikh and South Asian populations to differential practices of surveillance, scrutiny, and legal intervention. Under these circumstances, law has been afforded new measures of authority to refigure the political conditions of Sikh populations as its inscriptive powers are recurrently mobilized by the imperatives to arbitrate and resolve ostensibly "violent" and "uncivil" relations within diasporic Sikh communities. In this regard, the case law serves as a mechanism of racial governance because it (1) extends the practices of surveillance that make Sikh and South Asian communities differentially account for their conduct and (2) augments the state's capacity to refigure the juridical conditions of their social and political conditions.

RELIGIOUS JURISDICTIONS AND THE SOCIETY'S LEGAL FORM

In 1998, the Supreme Court of BC was tasked with deciding the legal authority of a series of edicts that had been issued by the Akal Takht, an institution in Punjab that is generally regarded as the primary temporal authority of Sikhi (Mandair, 2009). The edicts were issued after a petition from traditionalist members of Vancouver's KDS and had two primary stipulations: (1) tables and chairs must be removed from langar halls in all gurdwaras; and (2) anyone who tries to retain the furniture will be excommunicated from the Sikh faith. These edicts became a matter of Canadian law after traditionalists petitioned the court to invalidate resolutions passed at a meeting of the gurdwara executive that included members who had been formally excommunicated by the Akal Takht. That many members of the gurdwara refused to abide by the edicts reflects how groups within local Sikh communities afford different measures of legal and religious authority to the Akal Takht. Insofar as the traditionalist litigants framed the edicts as religious injunctions, determinations of their legality in Canada threatened to upend the courts' professed reluctance to intervene in matters of religion. This section explains how the courts have established and navigated their jurisdiction over Sikh affairs by projecting and enforcing distinctions between the religious, political, and bureaucratic dimensions of gurdwaras. It pays particular attention to how the legal form of the Society provides the discursive scaffolding through which courts exercise their inscriptive authority, which in turn shapes the jurisgenerative practices of the litigants.

Since 1891 different permutations of the Society Act have specified the legislative terms through which nonprofit, "benevolent" organizations can assume the legal form of a society in BC. Under the terms of each version of the Act, any group can be incorporated as a society so long as they represent a nonprofit organization and agree to abide by its protocols. The organizations that run gurdwaras are not obligated to take this legal form but incorporation affords them specific legal capacities, including the ability to own property and enter contracts and leases (Societies Act, 2015). The statutory stipulations of the society's legal form are ostensibly indifferent to the substantive purpose(s), interest(s) and concern(s) of the organizations. For instance, under the second most recent version of the Society Act (1996),[4] a group can become a society for "any lawful purpose or purposes such as national, patriotic, religious, philanthropic, charitable, provident, scientific, fraternal, benevolent, artistic, educational, social, professional, agricultural, sporting or other useful purposes […]." Insofar as this statutory stipulation establishes an equivalence between religious organizations and an array of ostensibly voluntary associations, the statutory terms of the society's legal form embed gurdwara associations within the discursive parameters of civil society.

[4]The version of the Society Act passed in 2015 involved only minor nominal changes to the subsection that specifies the allowable purposes of societies, none of which impacted the status of gurdwaras. Under this new Act, any nonprofit can be registered as a society provided that they are "for one or more lawful purposes, including, without limitation, agricultural, artistic, benevolent, charitable, educational, environmental, patriotic, philanthropic, political, professional, religious, scientifical, social or sporting purposes" (Societies Act, 2015).

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In the case law, there is considerable tension in how the courts establish and maintain this equivalence between gurdwaras and the other institutions of civil society, particularly given how the courts continue to profess the secular autonomy of religion. At different points in the case law, the courts characterize the relations of gurdwara societies in contractual terms. In one case regarding proper notifications for a society's Annual General Meetings, the court decided that the KDS of Victoria was not obliged to abide by its members' previous agreement to deviate from the society's bylaws, which the court explicitly likened to a "contract between the Society and its members" (Nagra v. Khalsa Diwan Society of Victoria, 1997). Because the present membership had not consented to these protocols, the court voided any binding authority they might have on the society as it configures formal participation in the gurdwara's affairs as an expression of the "voluntarity" that underwrites notions of personhood in civil society (Goldberg, 2009). While such notions of voluntarity betray how law often positions religious affiliation as an element of immutable faith or ancestry (Beaman, 2008), it reflects how the courts work to excise religiosity from its expressions in civic practices and organizations. For instance, as part of a decision concerning the improper distribution of donations to the KDS of Abbotsford, the court declared that "spiritual differences are not a matter for the court. The consequences of those differences are when they touch on the requirements of the Society Act and of the bylaws of the plaintiff [society]" (Khalsa Diwan Society of Abbotsford v. Sidhu, 2000). This kind of distinction is also articulated in one of the earliest cases of disputed leadership, which concerned the appropriate procedures for registering members; according to the court, such a dispute "reflects, as I understand it, a sharp difference within the membership as to the conduct of a society. […] It rests not so much upon matters spiritual as it does upon matters political—using that word in its broad sense and not in relation to governmental affairs in Canada" (Sandhu v. Khalsa Diwan Society, 1984). In each of these decisions, the court establishes and refines its jurisdictions over gurdwaras by projecting categorical differences between spiritual matters and their institutional expressions, mobilizing an entrenched secular distinction between religious beliefs that are interior to the individual, *forum internum*, and the manner in which those beliefs manifest publicly, *forum externum*. Whereas secular imaginaries typically position religious belief(s) in a realm beyond state intervention, its public expressions in conduct and institutional practice are engaged as legitimate objects of legal regulation insofar as they are necessary to create and maintain public order (Mahmood, 2015).

Yet, the legal parameters of gurdwara societies preclude such a clear excision of religious belief from the codified legal form of the society. The bylaws for most gurdwara societies stipulate that membership within their organizations is contingent on a person's belief in and adherence to Sikhism (e.g. Khangura v Khalsa Diwan Society, 1997; Pannu v Khalsa Diwan Society of Abbotsford, 1998). As of 2013, the KDS of Victoria limited its membership to "persons who profess the Sikh faith and adherence to the principles thereof […]" (as cited in Bhandal v. Khalsa Diwan Society of Victoria, 2013). Applications for membership in the KDS of Kamloops have included a form that requires applicants to "profess their faith in the Sikh religion" (as cited in Singh v. Sikh Cultural Society and Chahal, 1995). The constitution of the KDS of New Westminster has even specified that the objective of the society and its members is to "maintain and promote the teaching and observance of the Sikh religion according to the Shiromani Gurdwara Parabandhak Committee Armitsar Rehat Maryada […]" (as cited in Dhaliwal v. Khalsa Diwan Society of New Westminster, 1995). These faith requirements are symptomatic of how the society's statutory form establishes certain modular parameters for Sikhism, a modularity that gives religion a guise of applicability across localities (Keane, 2007). In the case law, the courts consistently negotiate and refigure these modular contours to fit gurdwaras and Sikhism into the normative parameters of civil society. Because these faith requirements are commensurate with the powers afforded to organizations under the Society Act, the courts are obligated to recognize and affirm their validity under law. In this regard, religious belief becomes inextricable from the legal form of the societies in a manner that locates matters of spirituality and religious interiority within the jurisdiction of the court.

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The legal parameters of gurdwara membership acquired even more religious detail in the bylaws of the KDS of Vancouver, which was a litigant in the case regarding the Akal Takht's edicts that was discussed at the outset of this section. According to these bylaws, an applicant must,

> believe in Almighty God, in the teaching and philosophy of the Sikh religion as contained the scriptures of Sri Guru Granth Sahib and in the writing of the ten Gurus (Sri Guru Nanak Dev Ji to Sru Guru Gobind Singh Ji) and in accordance with the Sikh Reht Maryada (the Sikh Way of Life) as established by Sri Akal Takhat Sahib, Amritsar, Punjab, India, and as published by Shiromani Gurdwara Parbanak Committee, Punjab India and must believe in the philosophy of Sikhism. (As cited in Gill v. Bhandal, 1998)

These membership protocols not only mandate a certain kind of religious belief for inclusion in the gurdwara organization but also an adherence to the authority of the Akal Takht, stipulations that reflect the jurisgenerative sensibilities of the organization. Insofar as these guidelines have legal force under the Society Act, they embed the Akal Takht within the jurisdiction of the courts. Yet, it is precisely these dimensions of the court's jurisdiction that are refigured through its decisions about the edicts issued by the Akal Takht.

When these edicts became a matter of Canadian jurisprudence, it was under the auspices of bureaucratic procedure as a group of traditionalist litigants had asked the court to void resolutions passed at a meeting of the gurdwara executives. The resolutions differed in their bureaucratic and religious objectives – one transferred the duties of the traditionalist President onto a different member of the executive while another clarified that the executive did not endorse the Akal Takht's expulsion of its members. According to the traditionalists' petition to the court, these resolutions lacked legitimacy because the executive did not have the requisite number of qualified people to reach the quorum that is required by the Society's bylaws. The court could only decide that the executive lacked quorum if it concluded that two of its members had been validly excommunicated, which would negate their legal and bureaucratic standing within the society. Through the legal petition, the traditionalists enjoined the court to decide a matter of religion according to the terms of proper bureaucratic process and procedure. Insofar as the traditionalists tried to establish continuity between the authority of the Akal Takht and the provincial courts, their jurisgenerative practices collapsed distinctions between the institutions' religious and legal sovereignty, projecting a vision of diasporic life that is tethered to and determined by certain traditions and institutions of Punjab.

In its decision, the court acted as though it could bracket determinations of the edicts' legal authority. According to the court, "it was agreed by the counsel that the Court could not resolve the issue of the validity of the edicts in this proceeding, if the Court could resolve it at all" (Gill v. Bhandal, 1998). Yet, because the court had to resolve the bureaucratic question of quorum, the traditionalist litigants asked the court to acknowledge their validity on a prima facie basis, a request it refused by explaining that,

> [the court] can only prima facie accept and give validity to laws it must judicially recognize within its jurisdiction. The religious law and rules binding on members of the relevant religious community are not among those matters which this court has the authority to recognize on a prima facie basis. (Gill v. Bhandal, 1998)

This passage is instructive for how the court disassociates from its jurispathic authority, acting as though it can preserve religion's secular autonomy by displacing questions about the edicts' legitimacy from its jurisdiction. Of course, in trying to bracket the edicts' force and legitimacy, the court ultimately mobilized its inscriptive capacities as it decided that the edicts have no binding authority over the affairs of the gurdwara, thereby validating the civil status of the members who had been excommunicated. Given how the Akal Takht's authority had been embedded in the legal form of this society, the court's capacity to void this legal authority reflects its inscriptive authority to rework and establish the contours of its jurisdiction.

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The court's inscriptive authority is also evident in the earlier case law regarding disputes over gurdwara leadership. In 1982, the courts were tasked with addressing a dispute regarding the procedures that should be used to appoint people to the Parmukh Sabha, a regulatory body within the Akali Singh Sikh Society. The Akali Singh Sikh Society governs a gurdwara in Vancouver that was formed in the 1950s because some former members of Vancouver's KDS felt it was straying too far from Sikh orthodoxy. Within the society's governing structure, the Parmukh Sabha is intended to preserve this orthodoxy, which was the basis of their rationale for populating it through appointments rather than elections. The appointment process became a matter of law because the Society's constitution did not specify how Parmukhs are to be chosen upon the completion of their 5-year terms. In its decision, the court professes its reluctance to address the issue according to routine legal procedures, explaining that,

> As a matter of ordinary society government, one expects questions to be resolved in accordance with the wishes of a majority expressed in a free democratic election. Such a process however may not be suitable for a religious society where matters of faith may make conventional political solutions unacceptable. Popularity may not be a suitable qualification for continued service as a Parmukh. (Bhogpur v. Akali Singh Sikh Society, 1982)

Through this exposition, the court fashions a distinction between religious orthodoxy and conventional democratic procedure, albeit in a manner that locates each within its jurisdiction. At a number of points in the decision, this religious difference of the litigants serves as a generative limit for the court's authority. Upon noting the challenges posed by the orthodoxy of the litigants, the court explains, "I decline (for now) to impose a legalistic solution upon these proud people. I shall decide this case if I must, but I prefer to give the parties an opportunity to work it out themselves" (Bhogpur v. Akali Singh Sikh Society, 1982). In the more recent case law concerning leadership disputes, the court has rarely, if ever, professed this kind of restraint in intervening in the internal affairs of gurdwaras; as the earlier sections of the article have conveyed, it has become routine for the courts to void elections and mandate the creation of new membership lists for gurdwaras engaged in litigation. Yet, in this decision, the professed restraint of the court ultimately guises the manner in which its ruling actively fabricates law's jurisdiction over the gurdwara's affairs, a process that recurs across the timeline of the case law.

Later in this ruling, the litigants' orthodoxy becomes a sign of the probable intractability of the dispute, making their religiosity a matter of procedural irregularity that is incommensurate with the practices of "civility" and "good governance" that characterize the promise of liberal civil society (Goldberg, 2009). The court's repeated assertion of this probable intractability provides the basis for exercising its authority over the gurdwara's religious affairs. In the final paragraph of the decision, the court even remarked that, if a resolution is not accepted by the interested parties, "this attempt at a non-legal resolution will fail and I shall decide this question according to law" (Bhogpur v. Akali Singh Sikh Society, 1982). Once again, the society's legal form provides the discursive scaffolding for the court's exercise of its inscriptive authority, refiguring the boundaries between religion and procedure as it asserts its jurisdiction over the activities of gurdwaras.

In analyzing this earlier decision in the case law, I am not suggesting that it singularly opened or established the parameters of the court's jurisdiction over gurdwaras. Rather, the parameters of its jurisdiction have undergone recurrent shifts and changes as the courts' decisions affect different processes of inscription, which are at once instigated by and formative of the litigants' legal and discursive practices. The court's jurisdiction over the religious and political affairs of gurdwaras had not been established or settled through the early legal decisions; instead, this jurisdiction is established and expanded as the courts refigure and delimit religion's autonomy from matters of politics and procedure(s) through the society's legal form, which establishes certain parameters for Sikhism within the normative infrastructures of civil society.

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SACRED ONTOLOGIES AND RELIGIOUS IMMATERIALISM

In 2000, the issue of langar furniture once again became a matter of law after traditionalist members of the Abbotsford KDS forcibly removed the tables and chairs from the gurdwara, invoking religious doctrine as the legal basis for its disposal. According to the moderate litigants, the traditionalists had no legal authority to dispose of the furniture and should be required to provide financial restitution to the Society. In its decision, the court once again professed to bracket questions of religious doctrine and concluded that the traditionalists had not followed legal protocols in disposing of the furniture, which it viewed as the property of the society. In this section, I explain how the court's decision reflects law's authority to refigure the ontological conditions of religion, changing the boundaries that differentiate it from the putatively material realms of politics, property, and civil society. Whereas the last section explained how law's inscriptive practices have shaped and decided the civic parameters of gurdwaras, here I explicate its capacity to posit and change the ontological conditions of religion, that is, the nature and parameters of its existence as well as its relation to the realms of politics and materiality. As I explain here, it is through the legal architecture of the Society Act and the language of private property that the courts dislocate Sikhism from the realm of materiality and extend their jurisdiction over the political affairs of Sikh institutions and populations.

In the disputes over langar furniture, one of the principal disagreements between the litigants has been the ontological status of the tables and chairs, whether they exist as property, as mundane, utilitarian objects, or as mechanisms of profanation. According to the traditionalists, the furniture's presence contravenes the codified practice of langar as well as the sacred status afforded to the Guru Granth Sahib, which each group generally regards as the primary scripture of Sikhi. To support their position, traditionalist litigants have mobilized a passage of the Sikh Rehat Maryada, a code of conduct that prescribes the behavior necessary to maintain a Sikh identity that is commensurate with the Khalsa. As part of the litigation, the traditionalists even cited a passage of the code that stipulates,

> All human beings, high or low, and of any caste or colour, may sit and eat in the guru's kitchen-cum-eating-hour. No discrimination on the grounds of the country of origin, colour, caste or religion must be made while making people sit in rows for eating. (As cited in Gill v. Bhandal, 1998)

As I explained in one of the previous sections, the communal ethic of langar, which is invoked in this passage, has a long political history that symbolizes a refusal of the religious and social hierarchies that were imposed upon Punjab through the Mughal Empire and the caste system (Mandair, 2013). In their submissions to the court, the traditionalists have suggested that the furniture disturbs this communal, "religious" ethic because it creates distance and division between the participants. By engaging the Sikh Rehat Maryada as a religious code, both the court and traditionalist litigants obscure its distinctly political conditions of emergence and mobilization. As Oberoi (1994) explains, it was codified in the first half of the 20th century amidst the activities of the Singh Sabha movement that sought to formalize a singular Sikh identity that is rid of any vestiges of Hinduism, a process that was energized by the categorical impulses of the British Empire. By abstracting the code from these political conditions, the jurisgenerative practices of the litigants enjoin the courts to preserve the autonomy of ostensibly religious traditions and institutions, once again illustrating how law's inscriptive effects are mediated by the legal maneuvering of the litigants.

Moderates have typically worked to disassociate langar furniture from the religious ontology posited by the traditionalists, sometimes characterizing the tables and chairs as utilitarian objects and other times as property. In their submissions to the court, a number of moderate groups have suggested that traditionalists only objected to the furniture's presence to regain political control over gurdwaras that had elected a moderate executive in the late 1990s. According to the moderates' court submissions, tables and chairs have been used in the langar halls of local gurdwaras since the 1920s.

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Across legal and media forums, moderate litigants and supporters have often framed the furniture as a practical adaptation of the ritual to the exigencies of the local climate. During a media interview about the furniture dispute, a member of one Surrey gurdwara invoked this ontology when she defended its pretense, explaining that,

> I have sympathy for Khalistan. I believe Sikhs need a homeland. But I don't think we should send our money to India from here. We have to make our own choices here. And that means allowing people to sit on chairs to eat. In India, it's hot, so it's okay to sit on the floor. But do you put your ass on a basement floor in BC? The floors are so cold. (As cited in Todd, 1997)

In this explanation, the ontological status of the furniture is directly tied to the divergent scales of authority that have laid claim to the gurdwara. The assertion of the furniture's practical utility not only disassociates it from the profane status it has been afforded by the traditionalists but also the authority of the Khalistani associations that are positioned as foreign and extraneous to the affairs of the gurdwara. Through their jurisgenerative practices, the moderate litigants grant courts the legal authority to disassociate gurdwaras from the influence of the Akal Takht, positing a diasporic experience that is unmoored from the singular authority of Punjabi institutions.

Like the traditionalists, the moderates mobilized notions of the sacred to characterize the ontological status of the Guru Granth Sahib—both groups agreed that furniture should not be in its immediate presence. Yet, in their submissions to the courts, moderate litigants have suggested that the tables and chairs are not proximate enough to the Granth to profane it. In one case, the moderates even took care to explicate the built environment of their gurdwara to demonstrate that the Granth was located on a floor above the langar hall, well away from where the furniture is used. Through this kind of accounting practice, the legal legibility of religion is tied directly to conceptions of the sacred that are formative of certain secular ontologies (Asad, 2003; Mandair, 2009).

In his canonical book *The Elementary Forms of Religious Life*, Durkheim (1996) identifies the sacred as an essential feature of religion as it has existed as a universal element of the social. According to Durkheim (1996, p. 44), religion is best characterized as a "unified system of beliefs and practices relative to sacred things, that is to say, things set apart and forbidden." This notion of the sacred, which extricates religion from the realm of mundane materiality, is an artifact of 19th-century European thought, which actively reconfigured a heterogenous field of ideas and practices into the singular category of religion (Asad, 2003; Mandair, 2009; Masuzawa, 2005). "The sacred," Asad (2003, p. 33) explains, "became a universal quality hidden in things and an objective limit to mundane actions, […] at once a transcendent force that imposed itself on the subject and a space that must never, under the threat of dire consequences, be violated—that is profaned." As I explained earlier, such conceptions of the sacred only acquired traction in Sikh beliefs and practices as British and Khalsa authorities forcibly translated them into Euro-Christian conceptions of religion (Mandair, 2009; Oberoi, 1994). In the case law on gurdwara leadership, the litigants have employed this conception of the sacred to enlist the courts in preserving and establishing juridical boundaries between Sikh religion and politics, once again positioning law to change and decide certain ontological parameters of Sikhism.

As I explained at the outset of this section, the court most explicitly decided the ontological status of the langar furniture after a group of traditionalists forcibly removed the tables and chairs from the Abbotsford gurdwara and disposed of it offsite. While traditionalists suggested that it was their doctrinal obligation to get rid of the furniture, moderates petitioned the court to recognize this conduct as criminal, characterizing the tables and chairs as the society's property that had been disposed of without proper authority. In its decision, the court ultimately located the furniture within the realm of property, affirming the moderates' ontology even as it maintained the pretense of legal neutrality. "It is one thing to uphold a doctrinal issue," the court explained, "it is another issue to dispose of assets without record, accounting, or recompense" (Khalsa Diwan Society of Abbotsford

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v. Sidhu, 2000). Through this qualification, the court identifies private property as its principal interpretive schema for deciding the furniture's status, engaging it as the financial assets or "chattel" of the gurdwara. Yet, in projecting this ontology, the court exercised its inscriptive authority to disaggregate the doctrinal status of the furniture from its classification as property, delimiting religion to an immaterial realm that can be excised from the material domains of politics and civil society. Here, the court projects the inviolability of the sacred in a manner that brackets matters of religion within its jurisdiction as it prioritizes and asserts its authority over the civic and financial matters of gurdwaras. In this same decision, the court further clarified the secular parameters of its jurisdiction when it concluded that, "the two defendants have breached their fiduciary duty, a duty of absolute trust to the Society by participating in the dispersal of the Society's property without proper authority" (Khalsa Diwan Society of of Abbotsford v. Sidhu, 2000). Through this admonition, the court deploys the society's legal form to reconstitute the litigants as economic actors whose obligations to the material conditions of the Society override what are regarded as "intangible" considerations of Sikh doctrine. Such inscriptive practices make the furniture's material form and practical utility indistinguishable from its status as property.

In a different decision, the court altered Sikhism's ontological parameters when it was tasked with deciding whether a municipal authority in BC, the Cowichan Valley Regional District, had sufficient grounds to preclude a local gurdwara from using their crematorium for commercial activities. Because the gurdwara was located on land zoned for "Park and Industrial purposes," the Regional District would only accept the use of the crematorium for "religious purposes." According to its legal submissions, the 200 cremations that had occurred since the installation of the new gas burning crematorium proved that the gurdwara's society had expanded into commercial operations. The court concluded that the Society's operations did not qualify for the exemptions offered to religious facilities, which the municipal code defined as "an assembly building used for public worship" (as cited in Paldi Khalsa Diwan Society v. Cowichan Valley Regional District, 2013). In its decision, the court stipulates that,

> Cremation, per se, is not a religious ceremony. Simply because it may be an aspect of some religious rites is not enough. I am satisfied that it would offend the principled approach to statutory interpretation to interpret the terms "religious facility" and "assembly" in a manner that would have facilities for the cremating of human remains fall within the definition of "religious facilities." (Paldi Khalsa Diwan Society v. Cowichan Valley Regional District, 2013)

Once again, the court reinscribes categorical boundaries between religion and the material realms of private property and commerce. Under these ontological conditions, the religious parameters of Sikhism are rendered equivalent to conceptions of the sacred that always exceed or transcend its articulation in specific ceremonies, rites, and material objects, thereby working to circumscribe its presence within the juridical and political spheres.

Across the cases analyzed in this section, the courts have arbitrated and refigured the jurisgenerative readings of the litigants in a manner that positions religion as a discrete and inviolable entity. Such inscriptive practices ultimately delimit religion's ontological parameters from the putatively "material" realms of politics and civil society. The extrication of Sikh religiosity from the domain of materiality parallels 19th-century colonial practices of translation that worked to render Sikhi equivalent to metaphysical conceptions of religion, translations that distorted and refigured its embodied, material, and political conditions (Mandair, 2009). Of course, it would be a mistake to suggest that the courts' inscriptive practices merely rehearse colonial translations or that the courts impose these ontological parameters in some kind of discursive vacuum; rather, these inscriptive practices reflect and mediate the litigants' contingent articulations of religion's ontological contours, which shift and change how Sikhism is differentiated and delimited from the civic, political, and economic realms. Yet, it has been the racial conditions of surveillance and scrutiny that continue to

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position law as an arbiter of Sikhism's ontological dimensions within this political context as the courts' jurispathic processes sanction and institutionalize how they are parametered.

CONCLUSION

The sizable body of case law on gurdwara leadership disputes has emerged from distinctly local histories of racial governance and Sikh practices of religious and political mobilization. Yet, as I have illustrated in this article, this specific case law is symptomatic of the secular state's more generic capacity to decide and establish the legal and political boundaries of religion (Agrama, 2012; Oraby, 2018; Sezgin & Kunkler, 2014; Sullivan, 2005), which Mahmood (2015) suggests has assumed a characteristic form across different geopolitical contexts. As Mahmood (2015, p. 4) explains,

> The two propensities internal to secularism—the regulation of religious life and the construction of religion as a space free from state intervention—account for its phenomenal power to regenerate itself: any incursion of the state into religious life often engenders the demand for keeping church and state separate, thereby replenishing secularism's normative premise and promise.

To contribute to sociolegal theory and critical secular studies, this article offers novel insights into the multiple intersecting mechanisms through which state law expands its authority over religion, attending to how processes of judicialization are mediated by the statutory parameters of civil society institutions as well as the discursive practices of litigants. On the one hand, it documents new forms and contexts of religion's judicialization by explicating how the society's legal form works to scaffold minority religions to the normative grammars and institutional frameworks of civil society. On the other hand, by differentiating the means by which law expands its authority over religion, the article also illustrates how the courts' inscriptive practices are at once framed and extended by the legal and discursive practices of the Sikh litigants, which reflect the historically contingent ways in which law has been positioned as an arbiter of intra-religious disputes within their different jurisgenerative practices.

This specific body of case law is also significant for critical race scholarship insofar as it reflects how local Sikh populations have been governed as religious and racialized minorities. As my analysis has demonstrated, the courts have exercised their inscriptive authority in a manner that radically delimits the religious parameters of Sikhism and repositions Sikh institutions within Canadian fields of state power and normative visions of civil society. Under these circumstances, the case law serves as an instrument of racial governance insofar as it augments the state's authority and expands how Sikh communities are subjected to differential relations of scrutiny, surveillance, and legal intervention. By bridging literatures on race, law, and secularism, this article demonstrates how racial governance has manifested law's capacity to affect how religion conditions the political circumstances and minority position(s) of differently racialized populations. Such insights should give pause to how law continues to be positioned as an arbiter of religion's place within liberal democratic societies, particularly given how racialized minorities are being bound to its shifting articulations with politics, culture, civil society, and materiality (Beaman, 2017).

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