

Introduction: Law in Many Forms

In the late 1620s, Prince Khurram was serving his punishment posting as governor of Deccan, while his sons were held hostage at the imperial court by his own father, Emperor Jahangir. Prince Khurram, who would eventually assume the imperial Mughal throne as Shah Jahan in 1628, was being punished for armed rebellion, which had also seen him attempting to build a military and political base in the *sūba* (province) of Malwa, until he was chased across the country by the imperial army and eventually defeated.¹ While embroiled in imperial high politics, Prince Khurram found the time to issue a *nishān* (a princely order) confirming the appointment of a man called Mohan Das to the post of *qānūngō* (local official maintaining tax records) of the *pargana* (district) Dhar.

The document revealed that the grantee Mohan Das had been going through upheavals of his own. Although once the *qānūngō* of Dhar, he had, for reasons unstated in the document, been transferred to Asirgarh, a significant hill fort marking the boundary between Hindustan and Dakhin. Asirgarh happened to be an important base of activity for Khurram in his period of rebellion; perhaps Mohan Das managed to catch the prince's eye at that place.² In any case, the document recited that since Mohan Das had proved his loyalty, he was glorified (*sarfarāz*) by being granted the office of *qānūngō* of the district in accordance with ancient custom (*ba-dastūr-i sābiq*). A certain village (*mauza*, in the terminology of revenue administration) was granted as *'inām*,³ as emolument or by way of reward for the unstated special services, or both. Several decades down the line, a descendant of Mohan Das, having lost this vital document, had a copy made, and endorsed by the local *qāzī* (Islamic judge), Muhammad Mustafa, who notarised the document with his seal bearing the date 1103 AH

¹ John F. Richards, *The Mughal Empire* (Cambridge: Cambridge University Press, 1993), pp. 114–15.

² *Ibid.*, p. 115.

³ This Arabic-origin word literally means reward. In Mughal and post-Mughal usage, it is generally translated as a grant of 'tax-free' or 'rent-free' or 'revenue-free' lands. See H. H. Wilson, *A Glossary of Revenue and Judicial Terms*, ed. Ganguli and Basu (Calcutta: Eastern Law House, 1940), pp. 338–40. This entitlement, which, at its most general, included the right to take a share of the peasant's produce, and could be combined with a range of conditions, is typical of the kind of nested and relational rights that this book is concerned with.

(1690 CE), and inscribed on it: *muṭābiq ba-aṣal ast*, ‘It is in line with the original’.⁴

In the National Archives of India, there are eighty-four (principally) Persian-language documents, spanning just over a hundred years, and pertaining to four generations of a single family of village-level landholders, who doubled as petty state officials based in the central Indian Mughal province of Malwa. There are also forty-three complementary documents, pertaining to the same family and clearly derived from the same family’s dispersed collection, in the museum Dar al-Athar al-Islamiyyah, Kuwait. Finally, there are around sixty-one documents, and other materials, still in the possession of descendants of the family, housed in their ancestral homestead in the city of Dhar, in the central Indian state of Madhya Pradesh. The majority of these documents are from the Mughal period – that is, the seventeenth and early eighteenth centuries – with a slim but narrow tail running through the era of Maratha imperialism and then into British indirect rule. These documents are all, broadly speaking, legal documents – whether they be official orders creating property rights, copies of such title-deeds notarised by court officials, contractual documents involving rent, debt, repayment and guarantee or judgements following disputes over property and inheritance. As in the document just summarised, each one of these documents offers a glimpse of the interweaving of imperial politics, military manoeuvres, taxation, co-option of local powerholders into the state structure and the contours of agrarian economy – all of which have been themes of classic works on Mughal history.⁵

While being informed by that scholarship, this book will approach such material in a different way, aiming to discover how petty rural grandees and minor stakeholders, such as members of Mohan Das’s family, attempted to negotiate the local power dynamics as well as the structures of governance in order to further their individual and family interests. In tracing the nature and methods of those efforts, we will take note of the protagonists’ in-between status, being both of the state and subject to it. Thus, this book is inspired by Farhat Hasan’s characterisation of the Mughal state as both shaping local societies and being shaped and sustained by them.⁶ Indeed, the protagonists

⁴ Persian manuscript 2703/31 (dated by cataloguer in ‘Jahangir’s period’, which refers to the date of the original document, rather than this copy), National Archives of India (NAI), New Delhi.

⁵ For a survey of the literature, see ‘Introduction’ in Muzaffar Alam and Sanjay Subrahmanyam, *The Mughal State, 1526–1750* (Oxford: Oxford University Press, 1998); some classics are Irfan Habib, *The Agrarian System of Mughal India 1556–1707* (3rd edition, New Delhi: Oxford University Press, 2014); Jos Gommans, *Mughal Warfare: Indian Frontiers and Highroads to Empire, 1500–1700* (London: Routledge, 2002).

⁶ Farhat Hasan, *State and Locality in Mughal India: Power Relations in Western India, c. 1572–1730* (Cambridge: Cambridge University Press, 2006). This itself related to an older debate about the extent of centralisation and bureaucratisation of the Mughal state, especially in relation to

of this story are very similar, if somewhat less grand and cosmopolitan, than the Mughal officials, businessmen and their families studied by Hasan in connection with the great Indian Ocean port cities of Surat and Cambay. Quite like the port officials, the limited eminence of men (and women) of Mohan Das's family was based on their local connections and landed power, but they could not thereby afford to rest on their laurels: the continuity and growth in their fortunes required them to access the state for offices, rewards and recognition, but also to inhabit it, thus turning the state apparatus into family property.

Unlike Hasan, however, the purpose of this book is less to evaluate the nature of the Mughal state (or the polities that succeeded it), and more to uncover the motivations, ideas and approaches of such little people who manned it, but who have remained woefully ignored in Mughal historiography, which is still predominantly concerned with either macro-historical structures and processes – the state, the economy, the military market – or grand individuals such as members of the royal family, great nobles, administrators and venerable saints. In particular, it is an effort to trace the ideas and activities of some not very eminent people through archives created in – broadly speaking – legal settings. While it may appear as such, I do not see this book as an effort to recover and represent an isolated fragment of history poised against normalising meta-structures.⁷ It is a micro-history, and as such, it is premised on the assumption that looked at up close, we always discover variations from what appear to be the overarching patterns, but we also discover conformity. The crucial point, however, is that we get close enough to the workings to be able to explain both deviation and conformity, and as such, use the part to explain the whole by illustrating their mutual relationship.⁸

Unlike the majority of micro-histories, however, this is not a study of a highly evocative single episode in time. The availability of a substantial and continuous series of documents, covering nearly four hundred years, pertaining to a single landed and locally powerful family who rode out three

corporate groups – of caste, kin and so on. M. Athar Ali, 'The Mughal Polity: A Critique of "Revisionist" Approaches', in his *Mughal India: Studies in Polity, Ideas, Society and Culture* (New Delhi: Oxford University Press, 2006), pp. 82–93.

⁷ The classic formulation in Partha Chatterjee, *The Nation and its Fragments: Colonial and Postcolonial Histories* (Princeton: Princeton University Press, 1993), p. 13.

⁸ Giovanni Levi, 'On Microhistory', in Peter Burke (ed.) *New Perspectives on Historical Writing* (Cambridge: Polity, 1991), pp. 93–113. Within the broad parameters, the best known examples of micro-historical writing demonstrate distinct analytical aims; Natalie Zemon Davis, *The Return of Martin Guerre* (Cambridge, MA: Harvard University Press, 1983); Carlo Ginzburg, *The Cheese and the Worms: the Cosmos of a Sixteenth-Century Miller* (translated by John and Anne Tedeschi) (London: Routledge, 1980 [1981]); Richard Darnton, *The Great Cat Massacre: and Other Episodes in French Cultural History* (London: Allen Lane, 1994). Very few micro-histories have been produced for South Asian history – biographies being a distinct genre: one of those few is Partha Chatterjee, *A Princely Impostor? the Strange and Universal History of the Kumar of Bhawal* (Princeton: Princeton University Press, 2002).

regimes, presents us with opportunities for discerning patterns and connections as well as transformations. We have the opportunity to trace the networks of kinship, association, affection and disaffection, to study strategies of personal and collective advancement, to uncover structures of authority and notions of rights and righteousness, and see how all this evolved as the Mughal empire gave way to other regimes in the region.⁹

This is a book about entitlements, and the efforts of some people in Mughal India and afterwards, for asserting and securing them. As such, this is a book about law, which is not conflatable with institutions or rules/norms.¹⁰ This book's conception of law does indeed encompass all the above, but also sees 'law' as a specialised language used by common people, with the help of low-brow specialists, to record, assert and dispute claims, to articulate popular expectations of the state, of peers and of betters, and (most usefully for a micro-historical study), to make striking statements of self-description. I also see law as an arena of contests, in which power is sublimated through normatively stated disputes, sometimes with the norms themselves in conflict. As this book argues, law is not just a code for power and an instrument for its application; it is also a site for the legitimation of power, so, therefore, also for challenging it.¹¹

Empires, Islam and Islamic Law

By writing the history of a part of the Mughal empire through law and legal records, and commenting on the Maratha and British empires in the same book, I am inspired both by the growing literature on the legal geographies of entangled early modern Eurasian and Atlantic empires,¹² and the only very partially connected literature on Islamic cultures of legal documentation, in the Middle East and North Africa, Iran and Central Asia.¹³ Like many others

⁹ For an effort in this direction in connection with law in the British empire, see Nandini Chatterjee, 'Muslim or Christian? Family Quarrels and Religious Diagnosis in a Colonial Court', *American Historical Review*, 117: 4 (2012), 1101–22.

¹⁰ Which was Subrahmanyam and Alams's concern in their introduction to *The Mughal State*, p. 6.

¹¹ E. P. Thompson, *Whigs and Hunters: the Origin of the Black Act* (London: Allen Lane, 1975), pp. 258–69.

¹² Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge: Cambridge University Press, 2009); Eliga Gould, 'Entangled Histories, Entangled Worlds: the English-Speaking Atlantic as a Spanish Periphery', *American Historical Review*, 112: 3 (2007), 764–86.

¹³ Maiike van Berkel, Leon Buskens and Petra M. Sijpesteijn (eds.), *Legal Documents as Sources for the History of Muslim Societies* (Leiden: Brill, 2017); Paolo Sartori, *Visions of Justice: ai'a and Cultural Change in Russian Central Asia* (Leiden: Brill, 2017); Paolo Sartori, 'Colonial Legislation Meets Sharī'a: Muslims' Land Rights in Russian Turkestan', *Central Asian Survey*, 29: 1 (2010), 43–60; Christoph Werner, 'Formal Aspects of Qajar Deeds of Sale', in Kondo Nobuaki (ed.), *Persian Documents: Social History of Iran and Turan in the Fifteenth to Nineteenth Centuries* (London: Curzon, 2003), pp. 13–50.

working on the history of empires, I have been struck by the bold imaginary provided by Lauren Benton – the idea of ‘lumpy landscapes’ of law as it spread unevenly along oceans, waterways and other difficult terrain, sometimes on the invitation of indigenous populations, sometimes despite their resistance. However, I am also cautioned by Paolo Sartori’s insistence on the need to pay attention to the particularities of legal pluralism in empires, rather than rushing to generalise about uneven terrains and jurisdictional jockeying.¹⁴ Now, Mughal India was an empire too, and since Benton’s own passing reflections on the nature of legal layering therein are tantalising rather than explanatory, we are left with the necessity of conceiving how law in the Mughal empire may have been arranged and negotiated, so that we have more than a pleasantly hazy idea of what law in precolonial India may have looked like.¹⁵

The banal but oft-ignored fact that the Mughals and their predecessors ruled over the only persistently and predominantly non-Muslim population in the Islamic world should give us pause, and encourage us to reflect upon the variant forms and dispensations of Islamic law in the early modern world. And in this connection, I believe it is worth retrieving Marshall Hodgson’s under-utilised concept of ‘Islamicate law’, because it allows us to conceptually grapple with several overlapping processes of cultural, institutional and political imbrication. This included the syncretic self-legitimation efforts of Mughal dynasts; the ubiquitous presence of the classical Islamic judge (*qāzī*) in and alongside multiple loci of dispute resolution; the work of scribes who recorded, or coded happenings in Indian villages and cities in broadly Islamic legal language; and the many villagers, townsmen, soldiers and officials, Muslim and not, who showed themselves to be not only aware of these forms of law and procedure, but also articulate in the relevant jargon and adept at negotiating the necessary processes. In coining the term Islamicate to refer to the broader cultural and social complexes associated with Islam and not limited to Muslims, Hodgson himself specifically contemplated ‘Islamicate law’ as a more capacious and effective way of thinking about law in the world of Islam, including *sharī‘a* but extending beyond it;¹⁶ it is time now to take up that suggestion.¹⁷

In this connection, it is important to acknowledge Shahab Ahmed’s rejection of the term ‘Islamicate’ for its tendency to reify its obverse: an artificially reduced notion of Islam-as-religion, falsely separated from all its cultural instantiations, including the Persianate ‘Balkan-to-Bengal’ complex that

¹⁴ Paolo Sartori, ‘Constructing Colonial Legality in Russian Central Asia: On Guardianship’, *Comparative Studies in Society and History*, 56: 2 (2014), 419–47.

¹⁵ Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900* (Cambridge: Cambridge University Press, 2002), at p. 80.

¹⁶ Marshall Hodgson, *The Venture of Islam: Conscience and History in a World Civilization*, Vol. I (Chicago: University of Chicago Press 1974), pp. 57–60, at 57.

¹⁷ Shahab Ahmed, *What Is Islam?: the Importance of Being Islamic* (Princeton: Princeton University Press, 2016), especially pp. 113–29; 157–75.

produced the classics of Sufi religious poetry, replete with anti-doctrinaire motifs of wine drinking and pederasty. Ahmed's argument, for a capacious vision of Islam, encompassing all its historical forms, is powerful and attractive as a hermeneutic for studying Islam. But as a conceptual matrix designed specifically in opposition to law, by which Ahmed meant a doctrinaire version of *sharī'a*, it does not provide the necessary tools for understanding the precise relational matrix – of authorities, institutions, laws and languages – within which the legal documents of this book were produced. And more specifically, it does not offer sufficient tools for understanding the mental and social worlds of the Hindu landlords who form the principal protagonists of this book.

A large volume of exciting new research has now suitably put to rest the notion of Islamic law being a system of rigid rules, derived from unquestionable sources, with no internal capacity for evolution with the times. It has been argued forcefully, and convincingly, that in fact *sharī'a*, or more accurately, *fiqh*, was an elaborate body of jurisprudence, systematically developed by legal scholars, *fuqahā'*, through a doctrinally systematic but also situationally responsive procedure. The core of this procedure involved the issuing of responses (*fatwā*, pl. *Fatāwā*) by qualified scholars (*muftīs*) to queries (*iftā'*) related to concrete legal problems. In framing their responses, *muftīs* drew on a hierarchically organised body of textual material – from collections of previous responses, to texts summarising the principles therein, back to recorded Prophetic tradition (*hadīth*) and ultimately the Quran. And while *muftīs* were not bound by precedent, they were constrained by a range of rules in their choice of authority – among other things the need to remain within 'schools' (*māzḥabs*) that worked with the opinions of certain eminent scholars and not others.¹⁸

No *fatwā* was binding on the judge (*qāzī*), who could decide to rely on one *fatwā* among several, or ignore them all, but in practice *fatāwā* definitely guided adjudication, and fed back, through compilations and summarisation, into the legal tradition.¹⁹ And while clearly one's experience of the system could vary hugely between contexts, scholars have shown that in early modern Islamic empires, such as that of the Ottomans, it could offer substantive possibilities of justice to women as well as non-Muslim minorities.²⁰ This

¹⁸ Christopher Melchert, *The Formation of the Sunni Schools of Law, 9th–10th Centuries C.E.* (Leiden: Brill, 1997)

¹⁹ Wael Hallaq, *Shari'a: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009); Wael Hallaq, 'Was the Gate of Ijtihad Closed?', *International Journal of Middle East Studies*, 16: 1 (1984): 3–41; Wael Hallaq, 'From *Fatwās* to *Furū'*: Growth and Change in Islamic Substantive Law', *Islamic Law and Society*, 1: 1 (1994): 17–56; David Powers, *Law, Society and Culture in Maghrib, 1300–1500* (Cambridge: Cambridge University Press, 2002); Muhammad Khalid Masud, Brinkley Messick and David S. Powers (eds.) *Islamic Legal Interpretation: Muftis and Their Fatwas* (Cambridge, MA: Harvard University Press, 1996).

²⁰ Judith Tucker, *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (Berkeley: University of California Press, 1998); Najwa Al-Qattan, 'Dhimmis in

was because of the clear, if not equal, rights accorded to such groups in Islamic law, which were often substantively superior to those afforded by community norms; also in part because of the possibility of systematic juristic discretion built into the system as a whole.²¹

Despite general agreement on the bare bones of this picture, approaches vary widely even among scholars studying the Muslim-majority parts of the world. It is my opinion that this variation arises from the nature of source material used. Those asserting the systematic proximity of academic jurisprudence and adjudicative practice have naturally focussed on material produced by those jurists themselves. They have used the prolific genre of *fatāwā* collections and higher-level *‘uṣūl al-fiqh* (principles of jurisprudence) texts, arguing that these simultaneously offer evidence for the progress of legal thought as well as practice, since such *fatāwā* were not only in conversation with other, and higher, jurisprudential texts, but also written as if in response to specific disputes, including descriptions of court procedures that featured *qāzīs*.²² Within such an analytical and evidentiary mode, scholars are then able to demonstrate both the principled and systematic nature of Islamic law, and the centrality of jurists, but also their flexibility in choosing from a range of acceptable authorities and their situational intelligence in interpreting them.

On the other hand, those historians who have worked from different categories of material, such as registers of the imperially sponsored courts preserved in various Ottoman archives, have revealed a more blurred image of Islamic law with multiple co-situated, competing or even unclear legal jurisdictions, with the king (and his representative) playing as important a role as jurists. The Ottomans, for example, appear to have institutionalised the *mufī-qāzī* arrangement, but very much under the thumb of the emperor, their jurisdictions defined, and increasingly restricted by imperial authority, whether through the accepting of petitions,²³ or through outright legislation. Petitions to emperors and governors also abounded in the Safavid empire in Iran, and many people in the Ottoman empire²⁴ as well as the Central Asian kingdoms²⁵ preferred (or were pushed towards) arbitration by local notables over, or

the Muslim Court: Legal Autonomy and Religious Discrimination', *International Journal of Middle Eastern Studies*, 31: 3 (August, 1999), 429–44.

²¹ J. Makdissi, 'Legal Logic and Equity in Islamic Law', *The American Journal of Comparative Law* 33: 1 (1985), 63–92

²² David Powers, *The Development of Islamic Law and Society in the Maghrib: Qadis, Muftis and Family Law* (Burlington: Ashgate, 2011); Tucker, *In the House of the Law*.

²³ James Baldwin, 'Petitioning the Sultan in Ottoman Egypt', *Bulletin of the School of Oriental and African Studies*, 75: 3 (2012), 499–524.

²⁴ Leslie Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (Berkeley: University of California Press, 2003).

²⁵ Paolo Sartori, 'The Evolution of Third-Party Mediation in Shari'a Courts in 19th- and early 20th-century Central Asia', *Journal of the Economic and Social History of the Orient*, 54: 3 (2011), 311–52.

alongside adjudication by the *qāzī*. There is debate as to whether and how such processes of arbitration were aligned with the formal *mufī-qāzī* structure; those wishing to align them have pointed to the doctrinal preference for peaceful resolution (*sulh*) in Islamic law,²⁶ the availability of documentary rubrics for recording such resolutions, and (in some cases) the official interrelations between the king, judge and arbitrator. Thus when the historical record reveals the working of law in Islamicate societies as tantalisingly Islamic in language, terminology and ethos, but not quite in line with the procedures outlined in the jurisprudential texts, scholars have attempted to see deviations as mere additions,²⁷ or point to generic pious statements within the intellectual tradition, or to discover hidden principles at work which aligned classical political theory (if not quite jurisprudence) with the observed practice.²⁸

This urge to prove the intellectual and procedural systematicness of Islamic law is of course a prolonged reaction to Weber's sweeping characterisation of Islamic law as an exemplar of *kadijustiz* – personalised arbitration rather than impersonal and formally rational jurisprudence and adjudication.²⁹ However, given that we now have sufficient scholarship available to attest to the sophistication of Islamic jurisprudence, it may be productive to think about 'the multi-layered nature of Islamic law 'sources',³⁰ and indeed of the legal traditions in practice, whether in the Middle East or elsewhere that there have been Islamic empires, such as South Asia.

Not doing so leaves the history of law in the Mughal empire in a strikingly underdeveloped state, and denies the study of Islamic law data from a very important and large Muslim and Islamicate context. Current geopolitical dynamics have obscured the fact that the early modern Islamic world had very different centres from the ones we know now. It was dominated by three great Turko-Persianate empires – the Mughals, the Safavids and the Ottomans. If we wish to know how Islamic law really worked in the day of its glory, it is to these empires and their workings that we should turn.

²⁶ Boğaç A. Ergene, 'Why Did Ümmü Gülsüm Go to Court? Ottoman Legal Practice between History and Anthropology', *Islamic Law and Society*, 17: 2 (2010), 210–44; Aida Othman, "'And Amicable Settlement Is Best': Sulh and Dispute Resolution in Islamic Law', *Arab Law Quarterly*, 21 (2007), 64–90.

²⁷ Haim Gerber, *State, Society and Law in Islam: Ottoman Law in Comparative Perspective* (Albany: State University of New York Press, 1994).

²⁸ Irene Schneider, *The Petitioning System in Iran: State, Society and Power Relations in the Late 19th Century* (Wiesbaden: Harrassowitz, 2006).

²⁹ David S. Powers, 'Kadijustiz or Qāḍī-Justice? A Paternity Dispute from Fourteenth-Century Morocco', *Islamic Law and Society*, 1: 3 (1994), 332–66; Gerber, *State, Society and Law*, esp. chapter 1; James Baldwin, *Islamic Law and Empire in Ottoman Cairo* (Edinburgh: Edinburgh University Press, 2017), p. 15.

³⁰ Chibli Mallat, 'From Islamic to Middle Eastern Law: a Restatement of the Field (Part II)', *The American Journal of Comparative Law*, 52: 1 (2004), 209–86. Mallat also offers a magisterial survey of the themes and sources used for the study of what he calls 'Middle Eastern law'.

On the other hand, as far as the discrete historiography of the Mughal empire is concerned, despite some excellent efforts,³¹ a persistent Indo-centrism has allowed it to continue not only at a disconnect from that of the other Persianised empires, but also with little systematic attention to Islamic law. Despite continuing and frequently politicised interest in the ‘religious policy’ of the Mughal emperors, research on the location of Islam under this Persianised Turko-Indian dynasty has remained limited to the periodic influence of certain sectarian Sufi *silsilas*³² and the uneven relationship of the *‘ulāma* with individual Mughal emperors. Traditionally, historians of Mughal India have tended to say little about matters such as dispute resolution and adjudication (the stuff of a huge volume of Ottoman historiography). This is not because of the absence of comparable judicial and legal structures. Based on the ubiquitous Persian manuals and chronicles, historians of Mughal India have duly noted the existence of the office of the *qāzī*, but taken it to be a minor and relatively uninteresting part of the imperial administrative structure, and associated with other sectarian offices, such as that of the *sadr* who managed grants to the Muslim religious scholars, and the *muhtasib*, a kind of public censor who was meant to control drinking, gambling and the selling of sex.³³ Since Mughal policy was taken to have moved away from confessional Islam, and given that most people in Mughal-ruled India were not Muslims, these offices are taken to be of minor significance, except in times of sectarian oppression. Alternatively, some scholars have attempted to explain the prolific documents bearing the *qāzī*’s seal by placing these randomly within an archaic notion of ‘Islamic law’, generally derived from eclectically selected classical *fiqh* texts from very different periods and places. Such scholars also noted, without comment, the judicial activity of the emperors and other officials. Anachronistic efforts to align the Mughal system with that of the hybrid ‘Anglo-Muhammadan’ law produced during colonial rule led to misapplication of English legal terms, such as precedent, which is alien to Islamic law; and a widespread but poorly evidenced belief, that apart from ‘criminal’ matters, most non-Muslims in the Mughal empire would have been left to resolve their own disputes or take

³¹ For example, Lila Balabanlilar, *Imperial Identity in the Mughal Empire: Memory and Dynastic Politics in Early Modern South and Central Asia* (London: I.B. Tauris, 2011); Stephen Dale, ‘The Legacy of the Timurids’, *Journal of the Royal Asiatic Society*, 3: 8 (1998), 43–58; Stephen Dale, *The Garden of the Eight Paradises: Bābūr and the Culture of Empire in Central Asia, Afghanistan and India (1483–1530)* (Leiden, Boston: Brill, 2004).

³² Yohanan Friedmann, *Shaykh Ahmad Sirhindi: an Outline of His Thought and a Study of His Image in the Eyes of Posterity* (New Delhi: Oxford University Press, 2000); Yohanan Friedmann, ‘The Naqshbandis and Awrangzeb’, in Marc Gaborieu, Alexandre Popovic and Thierry Zarcone (eds.) *Naqshbandis: Cheminements et Situations Actuelle d’un Ordre Mystique Musulman* (Istanbul, Paris: IFEA, 1990), pp. 209–20.

³³ Jadunath Sarkar, *Mughal Administration* (Patna, 1920), pp. 35–41.

them to Brahmin councils.³⁴ This final belief has proved the most durable, and, being embraced by scholars of Islamic law with little knowledge of Mughal administrative and documentary sources, it has acquired the status of truth merely by repetition, rather than research.³⁵

While there are still occasional works produced on law in the Mughal empire,³⁶ the study of Islamic law in India has proceeded at a strange disconnect from Mughal history. The most fruitful work on the precolonial period has been about the proliferation of the non-juristic elaborations of a broader sense of the ‘right path’, or about the many other sources of norms that appear to have displaced *sharī‘a*-as-law almost entirely in the Indian subcontinent.³⁷ Predominantly, however, Islamic law in India tends to be studied from a post-diluvian point of view: its resurgence and reformulation following the damaging and destructive effects of the imposition of British colonial rule.³⁸ And while scholars recognise the novelty of the proliferating projects of pedagogy and pastoral care from the late nineteenth century, aimed at training a body of religious scholars capable of guiding an inward-looking community of pious Muslim individuals, they rarely explore whether Islamic law ever had a wider jurisdiction.³⁹ Also, notwithstanding the very long history of Islamic *imperial* law, scholars tend to study Islamic law *and* empires. This suggests that, despite denunciations of older Orientalist works, scholars implicitly hold the outlines

³⁴ Muhammad Bashir Ahmad, *The Administration of Justice in Medieval India* (Aligarh: Aligarh Muslim University, 1941), which also included a table of cases in a modern adversarial format, pp. 17–22; S. M. Ikram, *Muslim Civilization in India* (ed. Ainslee T. Embree) (New York: Columbia University Press, 1964), pp. 221–2.

³⁵ For examples, see Moez Khalfaoui, ‘Mughal Empire and Law’, in *The [Oxford] Encyclopedia of Islam and Law. Oxford Islamic Studies Online*, www.oxfordislamicstudies.com/article/opr/t349/e0066, last accessed 04-Aug-2016; Scott Alan Kugle, ‘Framed, Blamed and Renamed: the Recasting of Islamic Jurisprudence in Colonial South Asia’, *Modern Asian Studies* 35: 2 (2001), 257–313, at 263; Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam since 1850* (London: Routledge, 2001), 139–52.

³⁶ S. P. Sangar, *The Nature of the Law in Mughal India and the Administration of Criminal Justice* (New Delhi: Sangar, 1998); M. P. Bhatia, *The Ulama, Islamic Ethics and Courts under the Mughals* (New Delhi: Manak, 2006). Bhatia is among the very few scholars after Muzaffar Alam to have made substantial use of Persian legal documents in Indian archives; he offers some very useful insights, including that of the mediating role of the *sadr* between the emperor and the *‘ulāma*.

³⁷ Muzaffar Alam, *Languages of Political Islam: India 1200–1800* (London: Hurst, 2004); Katherine Ewing, *Sharī‘at and Ambiguity in South Asian Islam* (Berkeley: University of California Press, 1988).

³⁸ Hallaq, *Sharī‘a*, pp. 371–88; Kugle, ‘Framed’; Rudolph Peters, *Crime and Punishment in Islamic law: Theory and Practice from the Sixteenth to the Twenty-First Century* (Cambridge: Cambridge University Press, 2005), pp. 103–41, esp. 109–19 on India.

³⁹ Barbara Metcalf, *Islamic Revival in British India, Deoband, 1860–1900* (Princeton: Princeton University Press, 1982); Muhammad Qasim Zaman, *The Ulama in Contemporary Islam: Custodians of change* (Princeton, 2002); Justin Jones, ‘“Signs of Churning”: Muslim Personal Law and Public Contestation in Twenty-First Century India’, *Modern Asian Studies*, 44: 1 (2010), 175–200.

of Islamic law to have been settled through the stabilisation of the Quranic text, the collection of traditions, and the production of juristic commentaries within the first three centuries of Islam.⁴⁰ Both these assumptions lead to the anachronistic view that Islamic law had always been community law. In a preliminary essay using a small selection of materials comparable to that which are used in this book, I suggested that such a community-centric conception of Islamic law is anachronistic for the Mughal period;⁴¹ this book takes up that idea more fully.

It does so, for two interconnected reasons. The first is my previous work in the field of law and colonialism, particularly with relation to religious identity and its co-formation with laws that worked through the ascription of confessional status.⁴² As I learnt about the endless potholes in the legal landscape of the British Empire, and about ubiquitous colonial protagonists hopping over and around them, I was tempted, first, to discover what they thought while they hopped,⁴³ and then led to wondering how exactly people may have negotiated structurally comparable problems in the Mughal empire. In choosing to follow that question beyond the assumption of a colonial rupture, and attempting to find out what exactly it was that had changed,⁴⁴ I discovered that while there is widespread awareness among scholars of Islamic law that the Indian continent, especially under the Mughals, offers a crucial case worth comparing to the frequently studied Ottoman empire, research into Islamic law in Mughal India is plagued by the incapacity or unwillingness of scholars of Islamic law to use Persian and Indic-language source material, and by the very simplistic ideas of Islamic law entertained by historians of Mughal India, who disregard most findings of the former group. It is only by combining the insights from the former and the skills of the latter that we can prevent the reification of particular

⁴⁰ Even scholarship based on traditional jurisprudential sources, but sensitive to the historical role of the state, offers a different narrative. Guy Barak, *The Second Formation of Islamic Law: the Hanafi School in the Early Modern Ottoman Empire* (Cambridge: Cambridge University Press, 2015).

⁴¹ Nandini Chatterjee, 'Reflections on Religious Difference and Permissive Inclusion in Mughal Law', *Journal of Law and Religion*, 29: 3 (2014), 393–415.

⁴² The reference here is to the 'personal laws', which, in the Indian case, are distinct sets of laws, purportedly, but very tangentially based on religious codes, and applicable according to the legally recognised religious identity of the party. These laws, of which there are four separate sets, regulate family life, inheritance and the management of religious institutions. See J. D. M. Derrett, *Religion, Law and the State in India* (first published 1968; New Delhi: Oxford University Press, 1999).

⁴³ Nandini Chatterjee, 'Muslim or Christian?'; Nandini Chatterjee, 'Hindu City and Just Empire: Banaras and India in Ali Ibrahim Khan's Legal Imagination', *Journal of Colonialism and Colonial History*, 15: 1 (2014), online only.

⁴⁴ A recent effort in that direction, from a maritime perspective, is Lakshmi Subramanian, *The Sovereign and the Pirate: Ordering Maritime Subjects in India's Western Littoral* (New Delhi: Oxford University Press, 2016).

Mughal-era jurisprudential texts, such as the late-seventeenth-century *Al-Fatāwā Al-'Alamgīriya* (*Fatāwā-yi Alamgīrī* in Persian), and enable proper analysis of their contents, especially what appears to be clear evidence of the Mughal jurists' deep interest in the implications of confessional diversity.⁴⁵

I am inspired to attempt to make that connection, especially by scholarship on other Islamic empires that conceive of an institutionally complex field united by the legal consciousness of users who saw it as one terrain.⁴⁶ Although differently conceived, insights derived from the broad field of Jewish studies⁴⁷ and Mediterranean history⁴⁸ are also illuminating, since attention to multi-confessional legal subjects under Islamic rule is of core interest to scholars working on these areas. If Jewish women and men from Morocco to Afghanistan learnt to get their transactions recorded in forms acceptable to Islamic tribunals, and if the Mameluk and Ottoman empires as well as smaller Central Asian kingdoms⁴⁹ created procedures for accommodating non-Muslims, then it is surely worth investigating what happened in Mughal India. This book tells the stories captured in the documents related to the central Indian go-getter Mohan Das and his family, and tells them as a story of Islamic law.

The Language of Law: Persian and Persianate

That is a story whose scattered pages are written in specific languages. Unlike Islamic jurisprudential literature, which, prior to the nineteenth century, was always written in Arabic, documents recording the rights, obligations and transactions of Mughal subjects – grantees to commoners – were written in Persian, sometimes in combination with other, more local Indian languages.

⁴⁵ Mouez Khalfaoui 'Together but Separate: How Muslim Scholars Conceived of Religious Plurality in South Asia in the Seventeenth Century', *Bulletin of the School of Oriental and African Studies*, 74 (2011), 87–96; as indicated above, I do not agree with Khalfaoui's speculative conclusions about the existence of separate legal systems for Sunnis, Shi'as and Hindus.

⁴⁶ These three works have been most useful for me in conceptualising my own analytical framework: Baldwin, *Islamic Law and Empire*; Sartori, *Visions of Justice*; Fahad Ahmad Bishara, *A Sea of Debt: Law and Economic Life in the Western Indian Ocean, 1780–1950* (Cambridge: Cambridge University Press, 2017).

⁴⁷ This includes the paleographic studies of the famous Cairo Genizah documents: Geoffrey Khan (ed. and translated), *Arabic Legal and Administrative Documents in the Cambridge Genizah Collections* (Cambridge: Cambridge University Press, 1993), and also more recent analyses of litigants traversing multiple jurisdictions, Jessica Marglin, 'Cooperation and Competition among Jewish and Islamic Courts: Double Notarization in Nineteenth-Century Morocco', in Moshe Bar-Asher and Steven Fraade (eds.) *Studies in the History and Culture of North African Jewry*, Vol. III (New Haven and Jerusalem: Yale Program in Judaic Studies and the Hebrew University Center for Jewish Languages and Literatures), pp. 111–29.

⁴⁸ Francisco Appellaniz, 'Judging the Franks: Proof, Justice and Diversity in Late Medieval Alexandria and Damascus', *Comparative Studies in Society and History*, 58: 2 (2016), 350–78.

⁴⁹ Claude Markovits, *The Global World of Indian Merchants, 1750–1947: Traders of Sind from Bukhara to Panāma* (Cambridge University Press, 2000), pp. 57–109.

That writing was highly conventional, and its conventions were derived not only from Arabic-language jurisprudential texts but also the chancellery traditions of Persianate empires, including pre-Islamic ones of the Near East, Iran and Central Asia and post-Islamic ones of South Asia. Since such legal documentation, and the processes documented therein, was the principal mode through which most Mughal subjects encountered law, the material pushes us to think of ‘law’ as more than jurisprudence, but as a mode of communication which shared and reoriented the juridical lexicon. Placing adepts and laity on the same sheet of paper, it encourages us to explore Islamic law as vernacularised in the Mughal empire, or conversely law as a specific trajectory of cosmopolitanism in the Indo-Persianate and Indo-Islamic world, as important as those other lines of interaction with Iran and Persianised Central Asia, in which interest has been growing since the 1990s.⁵⁰ Studies following the migratory patterns, circular and otherwise, of various skilled and enterprising groups, such as poets,⁵¹ painters, administrators, jurists,⁵² medical doctors⁵³ and traders,⁵⁴ between India, Iran and Central Asia underline that cosmopolitanism was borne by many who were not destined to be kings or anything particularly grand. This book shows that you did not have to travel very far from home in order to be cosmopolitan; the world came to you with your Persian-language title deeds.

Of course, the cosmopolitan entails its obverse: the vernacular. South Asia, with its persistent multiplicity of languages, affords us ample opportunity for reflecting upon this relationship, and law is an unfairly neglected location for doing so. As far as languages are concerned, the relationship between the potentially infinite scope of a cosmopolitan language and the necessarily limited and localised scope of a vernacular implies not just multiplicity but also hierarchy, even if that hierarchy is actuated in different ways. Sheldon Pollock has shown how during the first millennium after Christ, the two great cosmopolitan languages of Eurasia – Latin and Sanskrit – bore very different relationships with the vernacular languages they encountered. This difference appears to have been mainly about prescription and compulsion, or the lack thereof, in the South Asian case. Sanskrit’s non-coercive and permissive

⁵⁰ Balabanlilar, *Imperial Identity in the Mughal Empire*; Dale, ‘The Legacy of the Timurids’; Dale, *The Garden of the Eight Paradises*; Richard C. Foltz, *Mughal India and Central Asia* (Karachi, Oxford: Oxford University Press, 1998).

⁵¹ Mana Kia, *Early Modern Persianate Identity between Iran & India* (Unpublished Ph.D. Thesis, Harvard University, 2011).

⁵² James Pickett, *The Persianate Sphere during the Age of Empires: Islamic Scholars and Networks of Exchange in Central Asia, 1747–1917* (Unpublished Ph.D. dissertation, Princeton University, 2015).

⁵³ Seema Alavi, *Islam and Healing: Loss and Recovery of an Indo-Muslim Medical Tradition, 1600–1900* (Basingstoke: Palgrave, 2008).

⁵⁴ Scott Levi, *The Indian Diaspora in Central Asia and Its Trade, 1550–1900* (Leiden: Brill, 2002).

attitudes towards many scripts and other languages seems to have given way, in the ‘vernacular millennium’ that followed, to non-combative, localised vernaculars in South Asia, while European vernaculars turned into tools of the nation-state.⁵⁵

Pollock suggested a somewhat unilinear movement from the Sanskrit cosmopolitanism to vernacularism to the flattening cosmopolitanism of the present day (linguistically borne by English, no doubt). Scholars have used his concept of the cosmopolis to explore the functions of other trans-regional, prestige languages that clearly had a role to play in the Babel that is South Asia. Of these, the study of Arabic cosmopolitanism remains oriented towards the Indian Ocean circuit, including the south-western margins of India.⁵⁶ Persian, on the other hand, was *the* language of courtly culture and administration in Indo-Islamic India from the twelfth century onwards, placing India in an overland cultural-imperial circuit that reached up to the borders of China on the one hand and into Europe on the other. Richard Eaton, who has been drawing attention to this world-historical role of Persian from the 2010s, has proposed that Pollock’s concept of the cosmopolis, specified as the ‘Persian cosmopolis’ is a better framework for understanding cultural-societal formations in South Asia (such as the profuse use of domes in the architecture of the sixteenth-century Hindu empire of Vijaynagar), than the distorting ‘Islamicate’ model.⁵⁷ One principal reason for the inapplicability of a religion-derived adjective, according to Eaton, is that the Persian cosmopolis transcended religion, just as the Sanskrit cosmopolis had done before.⁵⁸

Three collective publications, including one featuring an essay by Eaton, have offered the term ‘Persianate world’ to offer a sense of this vast, supra-religious, multi-polity and multilingual sphere that loomed large in Eurasia in the second millennium, united by the prestige language of Persian.⁵⁹ Some

⁵⁵ Sheldon Pollock, ‘Cosmopolitan and Vernacular in History’, *Public Culture*, 12: 3 (2000), 591–62; also Sheldon Pollock, ‘India in the Vernacular Millennium: Literary Culture and Polity 1000–1500’, *Daedalus* 127: 3 (1998): 41–74.

⁵⁶ Ronit Ricci, *Islam Translated: Literature, Conversion and the Arabic Cosmopolis of South and Southeast Asia* (Chicago and London: University of Chicago Press, 2011).

⁵⁷ Richard Eaton, ‘The Persian Cosmopolis (900–1900) and the Sanskrit Cosmopolis (400–1400)’, in Abbas Amanat and Assef Ashraf (eds.) *The Persianate World: Rethinking a Shared Sphere* (Leiden: Brill, 2018), pp. 63–83.

⁵⁸ Richard Eaton and Philip Wagoner, *Power, Memory, Architecture: Contested Sites on India’s Deccan Plateau, 1300–1600* (Oxford: Oxford University Press, 2014), pp. 19–28. This idea, and the interaction between the Sanskrit- and Persian-oriented cultures is further substantiated in Richard M. Eaton, *India in the Persianate Age, 1000–1765* (London: Penguin Books, 2019).

⁵⁹ Brian Spooner and William L. Hanaway, *Literacy in the Persianate World: Writing and the Social Order* (University of Pennsylvania Press, 2012); Abbas Amanat and Assef Ashraf, *The Persianate World: Rethinking a Shared Sphere* (Leiden: Brill, 2019); Nile Green, *The Persianate World: the Frontiers of a Eurasian Lingua Franca* (Oakland: University of California Press, 2019).

scholars have drawn attention specifically to the phenomenon of writing (in Persian), without the associated skill of speaking it – proposing, therefore, the phenomenon of Persographia, rather than Persophonie.⁶⁰ Nile Green has more-over emphasised that in order to understand how this cultural complex functioned, it is necessary to identify the ‘various relational profiles’ of Persian with other languages in the various regions of this world zone, and identify what ‘forms of social interaction or organisation’ could be facilitated by Persian and which ones lay beyond its scope. This is a very attractive call with a vast scope of study in the Indo-Persian sphere, in which these relational profiles are many and the social layering of languages is specific to those regional profiles. Thus far, substantive research related to Persian in South Asia has remained largely limited to literary production; this book takes the search into the dusty world of legal documents.

Our documents are written in Persian, the administrative language of the Persianised Turkic and (occasionally) Afghan dynasties that established their empires in northern and central India from the eleventh century onwards, including that of the Mughals, but they are also written in other languages and scripts. We still know strikingly little about the procedural and practical relationship of Persian with the non-Arabic Indic scripts, as well as the South Asian vernaculars, especially those that may have been adopted for some administrative writing under the less-Persianised Afghans.⁶¹ Barring epochal, shakily evidenced events such as Emperor Akbar’s famous revenue minister, Todar Mal, prescribing the exclusive use of Persian in administrative documents,⁶² we know very little of how Persian and the many languages of India (generically referred to by Persian writers as Hind-ī or Hindawī) were utilised; our knowledge about the use of Persian in the Mughal empire being most systematic in connection with the production and consumption of high-

⁶⁰ Nile Green, ‘Introduction’ in Green ed. *The Persianate World*, pp. 1–71; Hanaway and Spooner, ‘Introduction: Persian as Koine: Written Persian in World-Historical Perspective’, in Hanaway and Spooner (eds.) *Literacy in the Persianate World*, pp. 1–68.

⁶¹ Momin Mohiuddin, *The Chancellery and Persian Epistolography under the Mughals, from Babur to Shah Jahan, 1526–1658* (Calcutta: Iran Society, 1971), p. 28; Muhammad Shafi, ‘*Ahdi Sher Shah ke do farmānein*’, *Lahore Oriental College Magazine* IX (1933), pp. 115–128. As it happens, this is poor evidence of Afghan documentary procedures and practice, because the two documents reported are not *farmāns* (imperial/royal orders) at all, but lower-level documents, which, as we shall see continued to be bilingual and bi-scribal even in Mughal times. This will be discussed in more detail in Chapter 4.

⁶² Habib, *Agrarian System*, p. 324, note 43; as Habib notes, the sources for this purported order are from much later and offer only anecdotal evidence; among them is the anonymous *Khulāṣat al-siyāq*, completed 1703. Nabi Hadi expressed clear doubts as to the accuracy of its version of events. Hadi, *Dictionary of Indo-Persian Literature* (New Delhi: Indira Gandhi National Centre for Arts, 1995), pp. 311–12. The *Akbar Nāma* itself only mentions a series of revenue and administration reforms introduced by Todar Mal in the 27th regnal year (1582–3), but nothing about language use. Abul Fazl, *Akbar Nama*, translated Henry Beveridge (3 vols., Calcutta: Asiatic Society, 1907–39), Vol. 3, pp. 560–6.

brow literature.⁶³ As our documents show, not all Mughal documents were in Persian,⁶⁴ but there was also a pattern to the way in which languages and scripts were combined in different types of documents, which this book will discuss in some detail.

We have learnt a lot about the education of budding Mughal scribes or *munshīs*,⁶⁵ who must hold the key to understanding exactly how Islamic legal terms – such as *iqrār* (legally binding declaration; confession) – came to be part of the everyday vocabulary of several South Asian languages, and the stuff of Bollywood musical declarations of romance. These archetypically non-Muslim scribes, ubiquitous and occasionally subject to the frustrated ire of Muslim jurists, learnt Persian through classical texts of poetry, moralistic prose and the *munshāts* (formularies) we are interested in; some also learnt accountancy and its cryptic numerals. A select few among them secured employment with the highest nobles, even the imperial court, while the rest slogged it out in districts and villages, where highbrow Persian literature may have had a limited audience,⁶⁶ but Persian legal writing certainly had its market.

And not just Persian; as this book will demonstrate, certain kinds of transactions attracted recording in at least two languages and scripts. In the majority of bilingual documents in our collection, this other language can be broadly designated Hindawi, but it is more accurate to call it Rangri, the scribal form of Malwi associated with Rajput courts, that is very similar to Rajasthani.⁶⁷ The script in the Rangri sections of the documents is an archaic form of Nagri, with some eccentric letters. Subsequent to the passing of the Mughal empire in Malwa, the family's archive continued to acquire documents in Persian, but now also began to collect royal (Maratha) orders in Marathi (written in the cursive Moḍi script) as well as Rangri/Hindi. Finally, with the advent of British indirect rule, the princely state of Dhar occasioned the production Urdu and English documents. There were thus many layers to translation – literal and cultural – of Islamic law, but we are only beginning to learn about the Mughal scribes' training in administrative Hindawi, and also about their makeover under Maratha and then British rule. And in this book, I can only attempt to

⁶³ Muzaffar Alam, 'The Pursuit of Persian: Language in Mughal Politics', *Modern Asian Studies*, 32: 2 (1998), 317–49.

⁶⁴ As Alam suggests was the case in *Ibid.*, p. 328.

⁶⁵ Muzaffar Alam and Sanjay Subrahmanyam, 'The Making of a Munshi', *Comparative Studies of South Asia, Africa and the Middle East* (2004) 24: 2, 61–72; Kumkum Chatterjee, 'Scribal Elites in Sultanate and Mughal Bengal', *IESHR*, 47: 4 (2010), 445–72; Rajeev Kinra, 'Master and *Munshī*: A Brahman Secretary's Guide to Mughal Governance', *IESHR*, 47: 4 (2010), 527–61; Rosalind O'Hanlon, 'The Social Worth of Scribes: Brahmins, Kayasthas and the Social Order in Early Modern India', *IESHR*, 47: 4 (2010), 563–95;

⁶⁶ As Hayden Bellenoit argues in 'Between Qānūngōs and Clerks: the Cultural and Service Worlds of Hindustan's Pensmen, c. 1750–1850', *Modern Asian Studies*, 48: 4 (2014), 1–39 at p. 13.

⁶⁷ On Rangri, see George Abraham Grierson, *Linguistic Survey of India* (Calcutta: Office of the Superintendent of Government Printing, 1903–1928), Vol. 9, Part II (1908), pp. 52–9.

present a speculative pattern about the rules and conventions for using these Indic languages and scripts within the bilingual documents, which were clearly prolific, in which I do not always agree with previous scholarship.⁶⁸

Texts prescribing the norms of language use and writing abounded in the Persian-reading sphere. These were the *munshāts* – formularies containing models of ‘letters’ in the broadest sense, including diplomatic missives between emperors, orders of various kinds, as well as exchanges between family members and relatives.⁶⁹ Available from the eleventh century in Iran, they were first produced in the fourteenth century in the Indian subcontinent. This Indo-Persian genre really took off in the seventeenth century, with proliferating formularies also adding a new section on legal deeds. Very few recognisable *munshāts* in any regional Indic languages have been discovered; a tradition of Sanskrit formularies, which is difficult to date,⁷⁰ appears to have largely (but not entirely) yielded place to the Persian. Isolated compositions continued to be produced in Sanskrit, the purpose of such productions remaining unclear.⁷¹ The Marathi-speaking and writing area appears to have been distinctive in producing a genre of manuals called *mestak* which, while grammatically Marathi, drew very heavily on Persian vocabulary as well as forms. These do not, however, contain models for legal documents, and are more concerned with offering instructions on correct writing methods and writerly behaviour.⁷² For the core Mughal regions, Persian manuals dominated the field;

⁶⁸ Najaf Haidar, ‘Language, Caste and the Secretarial Class in Mughal India’, unpublished paper, on author’s academia.edu pages.

⁶⁹ Jürgen Paul, ‘*Inshā* Collections as a Source of Iranian History’, in Bert Fragner et al. (eds.) *Proceedings of the Second European Conference of Iranian Studies (Bamberg, 1991)* (Rome: IsMEO, 1995), pp. 535–40; Colin Mitchell, ‘Safavid Imperial Tarassul and the Persian Insha Tradition’, *Studia Iranica*, 27 (1997), 173–209; Emma J. Flatt, ‘Practicing Friendship: Epistolary Constructions of Social Intimacy in the Bahmani Sultanate’, *Studies in History*, 33: 1 (2017), 61–81; Nandini Chatterjee, ‘*Mahzar-namas* in the Mughal and British Empires: the Uses of an Indo-Islamic Legal Form’, *Comparative Studies in Society and History*, 58: 2 (2016), 379–406.

⁷⁰ *Lekhapaddhati: Documents of State and Everyday Life from Ancient and Early Medieval Gujarat, 9th to 15th Centuries*, (ed.) Pushpa Prasad (New Delhi: Oxford University Press, 2007).

⁷¹ Pankaj Jha has drawn attention to the Sanskrit-language formulary – *Lekhanavali* – composed by the fifteenth-century Maithili polymath Vidyapati, and speculated about its twin connections with the conventions of Sanskrit grant deeds, inscribed on copperplate and stone, as well as Persian *insha*. While the connections deserve further study, a formulary for writing royal deeds in Sanskrit could only be a literary venture in the fifteenth century. Pankaj Jha, ‘Beyond the Local and the Universal: Exclusionary Strategies of Expansive Literary Cultures in Fifteenth Century Mithila’, *IESHR*, 51: 1 (2014), 1–40. Jürgen Hanneder kindly drew my attention to the nineteenth-century composition by Sahib Ram, apparently aimed at the court of Ranbir Singh of Kashmir.

⁷² Sumit Guha, ‘Serving the Barbarian to Preserve the *Dharma*: the Ideology and Training of a Clerical Elite in Peninsular India, c. 1300–1800’, *IESHR*, 47: 4 (2010), 497–525; Prachi Deshpande, ‘The Writerly Self: Literacy, Discipline and Codes of Conduct in Early Modern Western India’, *IESHR*, 53: 4 (2016), 449–71.

bilingual lexicons offering mnemonic techniques for effective memorisation of corresponding vocabulary appear to have sufficed; a working knowledge of Persian grammar and intimate knowledge of a limited number of Persian texts, including the formularies, providing the rest of the toolbox of the multilingual Mughal scribe.

Scholars working in southern Indian contexts and working backwards from the angst of British East India Company officers and Protestant missionaries, who raged endlessly against what they saw as the linguistically and morally distorted world of ‘cutcherry Tamil’, have offered perceptive suggestions for how such multilingualism might have worked in practice. In the early nineteenth century, Tamil-speaking scribes who used this polyglossic language, deeply imprinted with administrative Persian, worked with a combination of skills related to reading, writing, computing and memorising. Here too, there were no Tamil formularies as such.⁷³ There is clearly no necessity for linguistically distinct manuals presenting the same content when users have sufficient cross-lingual competence, which could just mean oral/aural familiarity with key terms without full facility in the source (i.e., Persian) language and script. Books in the high-status source language could provide models to be translated and transcribed *in situ* by adept specialists, but the same results could also be achieved through memorisation of models and stabilisation of a core technical vocabulary across languages.⁷⁴

This book will make some preliminary forays into exploring the modus operandi of multilinguality, within the specific, but widespread realm of law and legal documentation. In the absence of reliable programmatic statements from contemporaries explaining the purpose and modalities of using multiple languages and scripts in legal documents, I will work from the documents themselves. It is clear even from our family’s collection that certain documents invited multilinguality while others did not. Also, within the typology of material that this book works with, the multilingual types are themselves various in the way that they deploy the different languages and scripts in use. Relating language use to the form, content and purpose of the documents allows us to work back to the manner in which they may have been written and correlate specific kinds of social and institutional situations with particular kinds of language use.

In thus attempting to work out the normative, procedural and social relationship of co-situated languages, I will work with the axiom that language is never just a functional vehicle; what can be said (or written) is always determined by

⁷³ Bhavani Raman, *Document Raj: Writing and Scribes in Early Colonial India* (Chicago: University of Chicago Press, 2012), pp. 57–62, 106–34.

⁷⁴ Sumit Guha, ‘Margi, Desi and Yavani: High Language and Ethnic Speech in Maharashtra’, in H. Kotani (ed.) *Marga: Ways to Liberation, Empowerment and Social Change in Maharashtra* (Delhi: Manohar, 2008), pp. 129–46.

the medium through which it is said (or written). Understanding the relevant conventions, allusions and lexicons is necessary for reconstructing the conceptual landscape of our protagonists, for getting at what they thought they were doing. In this connection, it is always worth reminding ourselves that the lives and indeed written traces of our protagonists spilled far beyond the limited cache of distinctive Persian legal documents that form the core of this book. Memorabilia, photographs and a manuscript Hindi-language family history shared with me by the family members offer at least some glimpse into those other worlds that they simultaneously inhabited, and prompt us to remember a heterogeneous, even discordant, field of language use, with concepts varying dramatically from one end to another.

The Everyday Mughal Empire

Of course, law is not simply a product of culture or intellectual traditions. Our protagonists and the material they have left behind also force us to rethink the category of law as extending beyond an autonomous body of rules and procedure, and resituate it along a conceptual and coercive spectrum extending from state policy on the one hand to formal academic jurisprudence on the other, littered with un-academic manuals and pragmatic users in between. This spectrum was naturally negotiated by the heroes of my story through the use of several tribunals, languages and, when needed, force. In addition, their own view of themselves was frequently quite different from the meanings and functions that the regime attached to the offices that they were so keen to retain and display. One part of that difference derived from the well-known gap between the regime's aims and its abilities, especially in terms of its relationship with the *zamīndārs*, that ubiquitous class of heterogeneous origins, whom the Mughals wished to see as minor servants but had to handle as militarised rural powerholders who saw themselves of kings of their (admittedly) small realms.⁷⁵

It is not quite enough, however, to think of Mohan Das's family as part of an entrenched and sullen rural gentry, encased in the 'hard shelled structures'⁷⁶ of clan dominance in the countryside, their position secured for most of the time by the regime's unwillingness to spend excessive resources on extracting relatively small returns, their belligerence making them useful, but ultimately unconvinced allies of any overarching regime. There was no insulated rural society forever waiting to throw off Mughal rule and peel off Perso-Islamic political legitimisation; if those quintessential

⁷⁵ Habib, *Agrarian System*, pp. 169–229; S. Nurul Hasan, 'Zamīndārs under the Mughals', reprinted in Alam and Subrahmanyam (eds.) *The Mughal State*, pp. 284–98.

⁷⁶ This is John F. Richards' term, in Richards, *The Mughal Empire*, p. 82.

rebellious *zamīndārs*, the Marathas, did eventually assert a *Svarājya* in the late seventeenth century, they were able to do so after rising and growing under Deccani and Mughal overlords.⁷⁷ It is debateable whether the explicitly and self-consciously Hindu Brahminical political norms articulated by the Maratha rural rebels-turned-kings indicated the submerged but persistent existence of an alternative political vision, or indeed, whether it was a kind of planned ‘renaissance’ where Brahmin scholars found the political opportunity to rediscover classical texts, and for the first time in several centuries, apply them in adjudication. Whatever the answer as far as the Maratha effort is concerned, we cannot assume attachment to, or even knowledge of, any alternative universalist political ideology in Dhar in the seventeenth century, where our story is set.

What I mean, therefore, by a disjuncture between the Mughals’ view of the *zamīndārs* such as Mohan Das and the latter’s view of themselves, is that there was a clear gap between the hyper-formal vocabulary of the Mughal manuals of governance, and the way in which such people really worked for the government. In Mughal theory, there was a ranked body of imperial nobles, known as *mansabdārs*, who held various specific offices (governor, treasurer, paymaster-general, etc.) at different points in their career. The ranks were expressed in multiples of ten, and were composed of two parts – the personal (*zāt*) rank and the number of horsemen (*sawār*) rank. Together, the rank determined the salary of the *mansabdār*, which, in turn, had to be collected from a certain area which was given in *jāgīr*. While in theory there was an independent body of revenue officials undertaking collection of taxes, in reality the *mansabdār-jāgīrdār* had to make his own arrangements to get the taxes collected. Among other measures, the *mansabdār-jāgīrdār* could choose to farm out the collection of taxes to a lessee – an *ijāradār* – or several of them, although this was officially frowned upon. As for the amount of taxes to be collected, some provinces were *zabtī* – they had been measured and assessed and there was a schedule of taxes, prepared by the famous revenue minister of the third emperor, Akbar, in 1592, but everybody knew that the *jama dāmī* – the revenue demand – was generally unrealistic, and, in fact, separate accounts were maintained of the *hāl-i hāṣil* – current collections. And besides, several provinces were not surveyed at all, so tax-collection was a matter of yearly negotiation.⁷⁸

⁷⁷ André Wink, *Land and Sovereignty in India: Agrarian Society and Politics under the Eighteenth Century Maratha Swarajya* (Cambridge: Cambridge University Press, 1988).

⁷⁸ This outline, which will be elaborated further in the subsequent chapters, is based on W. H. Moreland, ‘Ranks (Mansab) in the Mughal Service’, *Journal of the Royal Asiatic Society* (1936), pp. 641–5; I. Habib, ‘The Mansab System, 1595–1637’, *Proceedings of the Indian History Congress*, 29: 1 (1967), 221–42; Shireen Moosvi, ‘Evolution of the Mansab System under Akbar’, *Journal of the Royal Asiatic Society*, 2 (1981), 173–85; Athar Ali, *The Mughal Nobility under Aurangzeb* (Bombay: Aligarh Muslim University, 1966), pp. 38–68; Noman Ahmad Siddiqi, *Land Revenue Administration Under the Mughals (1700–1750)*

All of this extraction process sat on top of a generic group of rural power-holders whom Abul Fazl's great chronicle-gazetteer only called *zamīndārs*. Our Mohan Das and his family were *zamīndārs*, but this term was only a description of status (like *mansabdār*) rather than of specific duties and entitlements; some *zamīndārs* might be elevated to court and become *mansabdārs* themselves, others would remain limited to a few villages. The numerous administrative manuals (*dastūr al-'amal*) written from the seventeenth century onwards elaborated what these less-eminent *zamīndārs* might do for the government. When recognised as *chaudhrī*, they were deemed as holding an office, which entailed getting the taxes collected. In playing that role – of government-sponsored arm-twisters – they were supposed to complement the role played by another kind of village officer, the *qānūngō*, who was meant to keep records of such extractions. These offices – *chaudhrī* and *qānūngō* – were supposed to be distinct,⁷⁹ and both deemed part of the revenue officialdom, sitting below *amīns*, *'āmils*, *karōrīs*, and so on.

In reality, of course, a *zamīndār* like Mohan Das could be a *chaudhrī* who doubled as a *qānūngō*, and might even take to being an *ijāradār*. That would mean that a *jāgīr*'s monetary worth would depend on a man, or group of men, who rolled record-keeping, revenue-extraction and tax-speculation into one, being able to be super-extractors because of their private armies. In fact, as with the protagonists of our story, they may have been able to acquire that bundled position because of specific military services provided to the *mansabdār-jāgīrdār*. In effect, in a certain district, such men might be the state.⁸⁰

These pragmatic modes of functioning were not unknown to the regime, for they are revealed to us through our documents – which formally recorded the various transactions undertaken by our protagonists in their different capacities. Because we have a continuous record of such transactions by the same family and its members over several generations, we can see how these rural go-getters 'managed' the system. Micro-history, when applied to such an archive, provides us with a methodological alternative to ethnography, which was used by Akhil Gupta to access the 'everyday practices of local bureaucracies and discursive construction of the state in public culture'.⁸¹ Pertinently

(Bombay: Asia Publishing House, 1970), pp. 41 ff. My argument follows that of Sumit Guha, 'Rethinking the Mughal Economy: Lateral Perspectives', *Journal of the Economic and Social History of the Orient*, 58 (2015), 532–75.

⁷⁹ On the distinction between the two roles, see Habib, *Agrarian System*, pp. 331–8.

⁸⁰ And by recognising this, we can be guided by insights derived from the concept of the 'everyday state', which has been explored in South Asian history exclusively with relation to the twentieth century. Taylor C. Sherman, William Gould and Sarah Ansari, *From Subjects to Citizens: Society and the Everyday State in India and Pakistan, 1947–70* (Cambridge: Cambridge University Press, 2014); William Gould, C. J. Fuller and Véronique Béné, *The Everyday State and Society in Modern India* (Delhi: Social Science Press, 2009).

⁸¹ Akhil Gupta, 'Blurred Boundaries: the Discourse of Corruption, the Culture of Politics and the Imagined State', *American Ethnologist*, 22: 2 (1995), 375–402, at 376.

for us, Gupta's perceptive analysis was with reference to the activities of a range of officials in a village in postcolonial India. There really is no reason to believe that such assessment has to be limited to the proximate past in South Asian history. The record for the Mughal empire is prolific; what we need is method and imagination for reconstructing the archive and putting the story together.

As we shall see, despite being district *qānūngōs*, that is, petty officials concerned with tax assessments, Mohan Das and his descendants were also represented in the family's documents as *chaudhrīs*, that is, local *zamīndārs* co-opted by the Mughals for the purpose of collecting taxes. This overlap in roles pushes us to make two modifications in our understanding of Mughal governance at the village level, the first of which is the translation of practice into theory through documentation. Documents consistently maintained clear distinctions between offices, but they also recorded simultaneous office-holding. Rather than see this as a conflict between Mughal theory of state and its reality, I see it as the percolation of a vocabulary of governance – everybody knew what the offices meant, they just wanted more of them. The second point is sociological: since whole idea of co-opting local *zamīndārs* rested on the regime's need to use local land-based power, we are pushed to relinquishing any anachronistic expectations we may have of *qānūngōs* being mere meek pen-pushing clerks. In so holding multiple official positions and bearing what might appear in retrospect to be conflicting social status, this family was neither unique nor symptomatic of imperial decline.⁸² The answer lies in finding out what exactly people of this kind did to get their jobs, salaries, grants, perks and most importantly, promotions, and indeed, how they saw themselves and justified their entitlements.

I propose that despite the undeniably turbulent quality of this level of the state, there was no clean cultural and political line dividing the regime from its rural social bases. This book cannot tell the story of what the Mughal regime looked from the other side, it will instead explore what it looked like on an 'everyday' basis,⁸³ especially when viewed from 'below', by those who were near the bottom of the pile and scrambling to get a bit higher.⁸⁴ As André

⁸² The largest *zamīndārī* of Bihar, that of the Darbhanga Rajas, owed its origin to a very similar set of conjoint appointments as *qānūngō* as well as *chaudhrī* of the pargana, under the reign of Emperor Akbar. Qeyan Uddin Ahmad, 'Origin and Growth of Darbhanga Raj (1574–1666), based on some Contemporary and Unpublished Documents', *Indian Historical Records Commission*, 36: 2 (1961), 89–98.

⁸³ I am borrowing the concept of the 'everyday state' from the special issue of *Modern Asian Studies*, edited by Taylor C. Sherman, William Gould and Sarah Ansari on the theme 'From Subjects to Citizens: Society and the Everyday State in India and Pakistan, 1947–1970', *Modern Asian Studies*, 45 (1) (2011), 1–224; and from the broader project within which this publication was located.

⁸⁴ This use of the 'history from below' is closer to E. P. Thompson's concept, which suggested the sharing of paternalist norms between patricians and plebeians in early modern England, which

Wink's powerful formulation continues to remind us, such turbulence, or *fitna*, was an essential part of the continuous process of state formation.⁸⁵ The languages and formulae of legal and administrative documentation that they used, the activities that these documents recorded and the self-representation that they enabled, all point to a deep social penetration of Persianate and Islamicate forms and the loyal Mughal soldier and courtier model – deeper than we may have expected.⁸⁶ The Bollywood obsession with badlands, replete with gun-toting *rāja sāhebs* with elaborate *harems* and private armies but also fluent in English and occupying various offices and franchises of the modern Indian state, perhaps offer us useful reminders of both the ubiquity of the state and its alter egos.

This then, is the story of part-time landlords, part-time clerks, occasional businessmen (or women) and amateur strongmen. They raised armies, fought others like themselves, dealt with nobles, robbers and the infrequent prince, were well-known to the local *qāzīs* and sometimes judges themselves. They were mostly not Muslim, but their lives, loves and conflicts resist such simple categorisation, and instead invite us to rethink modern-day categories whose neatness is anachronistic and misleading, and which obscure the nature of Mughal India as a unique Islamic polity with predominantly non-Muslim subjects.

Family, Lineage, State

In many ways, this book is about powerful households in South Asia, and is inspired by insights related to the history of the family from a wider world. It is impossible not to notice that the protagonists of this story were active agents in a matrix of emotional and material resources and that they drew sustenance from those accumulated resources, which included reputation, and worked hard to sustain and improve on them. But, as we shall see, they also competed among themselves to eliminate weaker and undeserving lines and individuals, and in doing so, they drew upon broader institutions of the state, seeking endorsement

the plebeians could still appeal to in the eighteenth century in defence of their customary rights. It is less reliant on the *Subaltern Studies* formulation, in which the underdogs/plebeians/subalterns were credited with a fully distinct normative world of their own. Compare: E. P. Thompson, 'The Moral Economy of the English Crowd in the Eighteenth Century', *Past and Present*, 50 (1971), pp. 76–136, with Ranajit Guha, *Elementary Aspects of Peasant Insurgency in Colonial India* (Delhi: Oxford University Press, 1983).

⁸⁵ Wink, *Land and Sovereignty*, pp. 23–35, 38, and throughout the rest of the book.

⁸⁶ On the cultural model presented by the Mughals, and its social penetration within the aristocracy and the service gentry, see J. F. Richards, 'Norms of Comportment among Mughal Imperial Officers', in Barbara Daly Metcalf (ed.) *Moral Conduct and Authority: the Place of Adab in South Asian Islam* (Berkeley: University of California Press, 1984), pp. 255–89; for its persistence, see David Lelyveld, *Aligarh's First Generation: Muslim Solidarity in British India* (Princeton: Princeton University Press, 1978), pp. 35–101.

by princes and nobles or adjudication by state-appointed judges. These fissures, purges and reformations of the family flash into view during disputes over property and distribution of entitlements, which will be discussed in detail in Chapter 5. But they also appear in the repeated recitation of the history of services rendered to the regime by specific individuals, leading to the acquisition of specific rights, and the reiteration of genealogies connecting present-day claimants to their illustrious ancestors. Thus the formation of this powerful lineage was not a self-contained process; it was formed within an active, and at least partly recoverable, network of relationships with specific nobles and particular officials, some over significant periods of time. These were the higher, or at least broader, powers, who were invited to weigh in during conflicts within the family, and who subsequently used that restructured family, and their clients within it, to extract services for their own households, or further upwards. Prior to the (never fully successful) efforts of the colonial state to separate the domain of the state from that of the family, the state used to be family business, from the imperial dynasty down to the rebel warlord's household. Given that the 'formation of families and the formation of states were . . . implicated in each other',⁸⁷ by studying this family, we are also studying the formation and transformation of states in South Asia.

Thus, in terms of subject matter, this book is related to studies of persistent landed lineages – both those that became 'little kingdoms' at some stage of their evolution⁸⁸ and those that rose and fell in economic, social and/or religious eminence, among other things by partaking of royal largesse, without aspiring to shares in sovereignty.⁸⁹ As far as royal households were concerned, it has often been pointed out that the Mughal emperors personally distributed power in a 'patrimonial-bureaucratic' manner.⁹⁰ More recently, we have learnt how Mughal princes created similar eddies of power, wealth and loyalty around themselves as competing power bases.⁹¹ But it was André Wink who took the concept down the social ladder by telling the story of powerful lineages in a constant state of rebellion or *fitna*, supporting the state, but threatening to

⁸⁷ Sumit Guha, 'The Family Feud as Political Resource in Eighteenth Century India', in Indrani Chatterjee (ed.) *Unfamiliar Relations: Family and History in South Asia* (New Brunswick: Rutgers University Press, 2004), pp. 73–94 at p. 78; the same idea also in Frank Perlin, 'The Precolonial Indian State as History and Epistemology: a Reconstruction of Societal Formation from the Western Deccan from the Fifteenth to the Nineteenth Century', in H. J. M. Claessen and P. Skalnik (eds.) *The Study of the State* (The Hague: Mouton, 1981), pp. 272–302.

⁸⁸ Nicholas Dirks, *The Hollow Crown: Ethnohistory of an Indian Kingdom* (Cambridge: Cambridge University Press, 1987).

⁸⁹ Laurence W. Preston, *The Deys of Cinvad: a Lineage and the State in Maharashtra* (Cambridge: Cambridge University Press, 1989).

⁹⁰ Stephen P. Blake, 'The Patrimonial-Bureaucratic Empire of the Mughals', *Journal of Asian Studies*, 39: 1 (1979), 77–94.

⁹¹ Munis Faruqui, *The Princes of the Mughal Empire, 1504–1719* (Cambridge: Cambridge University Press, 2012).

replace it as well.⁹² Following Wink, I do not try to judge whether it is the lineage or the state that is the primary historical and/or social phenomenon; I see the story of the lineage, actuated through households, as also the story of the state as it appeared in Mughal and post-Mughal Dhar.

If we accept that proposition, then it also becomes productive to place the story of this family in the social and political hierarchy that the documents constantly indicate. As historians of the family have taught us, household implies much more than the site of habitation by an ultimately nuclear (i.e., heterosexual, procreative) family; slaves, servants, retainers and relatives were all very much part of the spectrum of relations which extended upwards, towards the Mughal nobles and later Maratha warlord-princes. Studying the principal protagonists with relation to their kinsmen and women, social and political superiors, associates and subordinates, we thus have access to an unusually rich burst of social history, one which refuses to be contained either by an institutional matrix or a community-centred one. Mughal princes, Muslim scholars, Afghan servants, Rajput and Maratha warlords, elusive courtesans and travelling peddlers all form part of the fabric of a story for which hierarchy and mobility are two faces of the same coin.

Methodologically, however, there are difficulties with this approach. The cache of Persian documents that enabled this study is hyper-masculine; it ostensibly looks towards the outside world. Although family relationships are so crucial to the shaping of the lineage and its claims, women make only fleeting, albeit evocative appearances in these documents, in all cases (except one) in the context of distress or a breach. Those breaches – of norms, of boundaries of kinship, of mutual obligations between master and servant – sometimes allow us a glimpse of the *ghar* behind the *gharāna*.⁹³ These glimpses supplement the picture we glean from the documents overall – that of a feudal household, with its patriarch, conflict between male heirs at generational boundaries, widows and black sheep, all encircled by armed retainers supplementing the ambit of kinship, and constituting a resource cluster that could be usefully offered to an incumbent regime. However, this being a Hindu family, we are deprived of the one documentary form that may have told us something more about kinship strategies – the *nikāh-nāma*. We are also deprived of a persistent series of interpersonal letters that may have allowed us to reconstruct the ways in which relationships were formed and sustained. On the other hand, some of these limitations are compensated for by a Hindi-language family history, produced sometime in the eighteenth or nineteenth

⁹² Wink, *Land and Sovereignty in India*.

⁹³ For a work similar in spirit to this book, and situated within the wider field of histories of the family, see A. R. Kulkarni, 'The Jedhe *Gharane* (the House of the Jedhes)' in Irina Glushkova and Rajendra Vora (eds.) *Home, Family and Kinship in Maharashtra* (Delhi: Oxford University Press, 1989), pp. 173–84.

centuries, which elaborates further on the preferred feudal and martial self-image of the lineage. I will discuss this text in Chapter 7, but my interpretation of the seventeenth- and eighteenth-century Persian documents is influenced by what I know the family wished to believe about themselves several generations down the line.

The Sources: Archives and Fragments

The core of this story rests on three stores of ‘private papers’, which clearly derive from a single family’s collection. It is worth pausing here a while, to reflect upon this category from the archivist’s trade. Scholars of relatively recent periods of history very often wade through messy and frequently tedious collections of diary notes, personal and official letters, theatre tickets and newspaper clippings in order to access the private person by reconstructing their emotional and social dynamics. Such people naturally have to be wealthy enough and regard themselves highly enough in order to create and preserve such collections, and eventually, public repositories have to consider such material of wide enough significance to transform these narcissistic collections into the ‘private papers’ of historians. The category assumes a certain clarity of distinction between the public and the private, even when the persons authoring or featuring in the documents are the same. For example, it is noted of the British Library’s vast collection of ‘Private Papers’ of British officials and civilians in India that, ‘Though often including papers similar to or complementing the much more extensive India Office Records . . . the Private Papers are distinguished from the Records by their provenance from private sources’.⁹⁴ Archivists today are aware of the difficulty of classifying documents and artefacts on the basis of provenance, leading to advanced distinctions based on function – thus the President’s diary, as well as the records of his or her political party are comprised in ‘private papers’, since, these are not records of the ‘official’ functioning of the state.⁹⁵

Paradoxically, private papers also remain premised on a notion of public significance. It is true that interest in the lives and thoughts of the working classes and marginal groups, such as immigrants, or, in other cases, a need to demonstrate the popular bases of national identity, has, since the 1950s, led to a widening of the source base. This trend has been strengthened by the availability of voice-recording technology, which can capture the memories of people who had not otherwise created a paper trail of their lives. Despite these developments, however, ‘Private Papers’ identified by the name of

⁹⁴ The National Archives, ‘Mss Eur: Private Papers’ online guide.

⁹⁵ Richard Pearce-Moses, *A Glossary of Archival and Records Terminology* (Chicago: Society of American Archivists, 2005).

a person require that person to have been of some eminence; the writings or words of those lacking such eminence are consigned to less individuated archives – of oral history or otherwise.

Thus, in characterising the records that form the core of this book, we are confronted with two problems, both related to the meaning of archives. As far as the question of eminence and significance is concerned, one might think that our protagonists have provided us with a clear answer. They collated their own collection, and in doing so, commented not only on the significance of the events recorded in those documents for themselves, but on their own continued significance within that local chain of events. However, the collection of papers that Mohan Das and his descendants accumulated was eventually dispersed, through mechanisms that are now impossible to fully reconstruct. It is only by doggedly pursuing a hunch, being rewarded by fortuitous coincidences and the unbelievable generosity of complete strangers that I was able to reconnect three parts of that dispersed collection, over a period of six years. The substantive results of those efforts and their results are contained in this book; the methodological insights that I gained thereby are elaborated in the conclusion.

Through conversations with present-day descendants, it appears that the substantial library and documentary collections of the patriarch of the family were held at the Dhar homestead until very recently, that is, until two generations ago. Some time during the decades following India's independence, the family lost its long-established ability to read Persian, and consequently, the ability to appreciate materials written in that language. Thus, some time in the 1950s or 1960s, unknown family members chose to donate or sell some of their documents, which had by then become obscure historical artefacts, to their mind interesting only to museums, libraries and private collectors. One such set, comprising exclusively of what must have been seen as higher value documents – entirely Persian-language stamp-bearing original *parvānas* – made their way to Dar al-Athar al-Islamiyyah Museum (DAI), Kuwait. A more miscellaneous collection, still mostly in Persian but including a variety of documents, a significant number of them including Hindi (in Nagri) sections or marginal notes, came to be acquired by the National Archives of India (NAI), Delhi. The remainder, including most material in Marathi in the Moḍi script, remained in the household.

There is a striking parallel, therefore, between the narratives underlying the archiving aims of repositories, and the collections they acquire and curate. Created in 1983 as the public repository of the private art collection of Sheikh Nasser Sabah al Ahmed al Sabah, the DAI's aim is to curate and present artefacts from across the Islamic world, from Spain to China. Naturally, the portion of the Dhar family's collection that was selected to travel to Kuwait was what appeared most Islamic, that is, was entirely in the Perso-Arabic script, including the seals, all of which were those of Muslim nobles/officials. The National Archives of India, on the other hand, acquired a more diverse

collection of material, including those which appeared less grand and with a great deal of Nagri-script writing on them. Such material aligned well, in fact, with other such private collections acquired by the National Archives in the 1950s and 60s.⁹⁶ The remainder at Dhar was a mix – a few impressive-looking documents, several copies of documents held either in Delhi or Kuwait, and all the Marathi-language material, including long lists in vertically opening books, or *bahīs*. It is as if language, perceived prestige value and geographical relevance overlapped to decide how the household collection would be actually dispersed and relocated. In turn, those archiving narratives shape the stories that can possibly be told using material from each of those collections.

The journey of this book has consisted of the reaggregation of that dispersed collection. I will tell that story fully in the concluding chapter, where I will also discuss the rationale for my efforts. Suffice to say here that my journey began in the NAI, New Delhi, when I realised that the apparently amorphous collection of the ‘acquired’ papers of the NAI (around 14,000 documents), actually consisted of the collections of a handful of families – among them certain Bania merchants of Cambay, some Muslim scholars of Sandila and a family of *zamindārs* from Dhar. I also realised that, in line with still-current archiving (and research) principles, the NAI had either destroyed the integrity of the collections, merging and rearranging them chronologically and/or catalogued them in that exhaustive but haphazard fashion. As such, researchers seeking to reconstruct a particular collection must wade through the entire catalogues of the private papers, locating names, places and events that identify a paper as part of a certain collection. It was while doing so that the name Purshottam Das began to leap out at me from the pages, until I realised that there were dozens of documents that mentioned just this one man.

As I collated these documents together, and also learnt to recognise Purshottam Das’s relatives and associates, I also learnt to read the cursive Persian, written in the fearsome ‘broken’ or *shikasta* script and in Arabic-inflected, Indian-usage-dominated Persian legalese, in the face of which all my hard-earned knowledge of Persian grammar and reading skills failed me completely. But I was fortunate then to find the best and most generous teacher one could have – Chander Shekhar of Delhi University – whose patience and endless love for anything written in Persian extended (very unusually) from sublime poetry to witness attestations on the margins of legal documents. He encouraged me to break the rules – instead of telling me to postpone reading

⁹⁶ *Calendar of Acquired Documents*, continues as *Descriptive List of Acquired Documents*, 4 vols. (New Delhi: National Archives of India, 1982–95). I discovered later that the principal archivist and cataloguer, Zakir Hussain, had also produced a short description of the portion of the Dhar family’s collection acquired by the National Archives of India. Zakir Hussain, ‘A “Zamindar” Family of “Sarkar” Mandu “Suba” Malwa during the 17th Century (Archival Evidence)’, *Proceedings of the Indian History Congress*, 53: 9 (1992), 311–20.

difficult materials until my Persian was better, he told me to learn to read by reading what I was really interested in. And so I was trained to become, in my Persian reading skills at least, somewhat like the scribes or *munshīs* who wrote these documents in the first place.

Three short and intensive bursts of collaborative study of the documents, together with Chander Shekhar, funded by the British Academy, allowed me to understand these documents better. My obsession with them also led me to follow a footnote in Irfan Habib's encyclopaedic work on the *Agrarian System*, which mentioned a set of documents pertaining to a family of *zamīndārs* from Dhar. Habib noted that these documents were held at the Dar al-Athar al-Islamiyyah Museum in Kuwait. Working on a hunch, I contacted the museum, and its staff, incredibly generously, sent me digital copies of all forty-three documents in their collection.⁹⁷ These turned out to be derived from Purshottam Das's family, again, many of them featuring the man himself, bearing familiar seals and handwriting, both in the main text and on the margins. Many of them were also demonstrably originals of documents whose copies I had found in the National Archives.

Together, the documents from the National Archives and DAI Kuwait brought the story up to the 1720s. What happened to the family thereafter remained obscure, and all I have suggested above in terms of archiving, dispersal and re-archiving remained no more than speculative. Deeming this sufficient to write a plausible micro-history of a *zamīndār's* family in Mughal Malwa, examining thereby the formation of households and dynasties, the use of state resources and the recording of entitlements through the use of multiple languages, I considered my book nearly complete. On a whim, then, I decided to make a trip to Dhar, to see if I could take any photographs of the locations in which I knew my protagonists had operated that would be illustrative of context. And I ended up meeting the descendants of the family and discovering yet another portion of the archive, which extended my story from that of the Mughals, via the Marathas, right up to the British empire and up to the present day.

Dhar is a crowded city with an interesting but run-down fort, which rather pales in comparison with the beautiful Afghan mosques, forts, palaces and tombs in nearby Mandu. Driving and walking through the city, however, I came across a run-down, but still gorgeous complex of buildings, some of

⁹⁷ Twenty-four of the documents in the Kuwait DAI collection were summarised by Syed Bashir Hasan in 'Administration of *Jagirs* in Malwa in the Mid-Seventeenth Century: the Dhar Documents', in Shahabuddin Iraqi (ed.) *Medieval India 2: Essays in Medieval Indian History and Culture* (Manohar: Centre for Advanced Study, AMU, 2008), pp. 217–30. I assume that the scholar used photocopies that had been sent from Kuwait to Aligarh for Irfan Habib's evaluation; the same set of copies were probably used by Munis Faruqi in his *Princes of the Mughal Empire*.

which had life-size statues that were clearly of Maratha warriors. After asking around, I finally understood that these were the *chhatris* – the Rajput-style tomb complex of the Maratha Puwar dynasty that had become established in the region in the 1720s. Further asking around led me to the *rājwādā*, the erstwhile headquarters of the Puwar state, now a run-down complex of buildings bustling with everyday trade and business. From here, a generous young tailor took me to meet a knowledgeable lady whose name I did not learn, who told me that I clearly needed to meet one of the two highly respected Puwar brothers – the elder a former member of the State Legislative Assembly.

And so I imposed myself on the generosity of Mr Karan Singh Puwar, direct descendant of Anand Rao Puwar, who, together with Holkar and Sindhia, had invaded and conquered Malwa from the Mughals in the 1720s. Mr Puwar listened to what could have appeared to be preposterous queries about a family of *zamīndārs* who may have been subordinate post-holders under the Puwar-ruled Dhar state. The term *zamīndār* was alien to the region, he said, but on hearing the names of the protagonists, he smiled and called a number. And so I spoke to Amit Choudhary, direct descendant of Mohan Das and Purshottam Das *chaudhrī* of Dhar. Amit, a businessman and self-described history buff, recognised the names of his ancestors and was convinced by the research rationale I presented, and made arrangements for me to visit his ancestral home in another part of Dhar, where his mother Abha Choudhary, a beautiful and graciously intelligent lady, welcomed me, and showed me several boxes of documents, mainly in Persian, some in Hindi and a few in Marathi, bearing familiar handwriting, names and seals. Now I had the most complete archive of documents related to a single family in Mughal India, barring the Mughal dynasty itself.

Once again applying my old methods of careful transcription, translation and cataloguing, I now had almost two hundred documents, and more gaps in the story filled, especially that gaping hole after the 1720s. I learnt that the family had survived not one, but two, even three changes of regime – first the Maratha Puwar state, then indirect British rule, then the postcolonial Indian nation. I learnt what had been speculation until that point; that the male members of the family had tended to be fluent in Persian until about three generations back, that is, around the independence of India, which is approximately the time the documents began to be dispersed from the household. Amit also offered me photographs that helped, for the first time, to put a face to a name, and catch a glimpse of the manner in which this landed family of *Thākurs* in a princely state presented themselves using modern visual technologies. And I was able to access material that historians of the early modern non-European worlds only dream of: materials of self-reflection and self-representation, that can complement and gloss the

formulaic material presented by the Persian documents. The most exciting of these was a scroll of family history written in Malwi/Rangri.

Despite all this, we still have no way of knowing the full limits of the archive, and in any case, that may be a false line of enquiry, because an archive is formed precisely because people wish to record certain things and erase others. This leaves us with difficulties in attempting interpretations that the papers themselves appear to be calling for. In our current collection, for example, once one gets to know the protagonists and their mutual relationships well enough, a clear plan of documentation begins to emerge. Certain lines of the family, and certain individuals within those lines, preponderate. The earliest document in the (reconstituted) collection, a grant to a certain Jayanti Das in 1574, is an outlier. The vast majority of documents are from the seventeenth and early eighteenth century, and about half of them name one person – Purshottam Das, son of Mohan Das, nephew of Chandar Bhan. Purshottam Das appears to have had a long and active career, which began in the 1620s. After some years of working in association with his father, and then his uncle, he came into his own in the 1650s, and had a long-term but occasionally turbulent professional relationship with a man called Paras Ram (the second most frequently named person in the collection). When Purshottam Das died in 1684, the family line appeared to stabilise, after a few very serious squabbles, on two of his sons, called Hamir Chand and Narsingh Das. This unilinear genealogy – Jayanti Das to Mohan Das to Chandar Bhan to Purshottam Das to Hamir Chand – was however a narrative that was very deliberately created by members of this line. It was created through repeated, periodic narrations of the family's antecedents, membership and entitlements; these narratives were produced and recorded during legal disputes, when other members and claimants made fleeting appearances, but were resolutely erased. Genealogies played a vital role in establishing that lineage and its claims; one such genealogy was produced in the early twentieth century, when Pratap Chand, a descendant of the main line, wrote a petition to the Resident of the princely state of Dhar, asserting the claims of his family against the expansive ambitions of the Puwar dynasty that ruled the state.

As such, the creation of this archive can be seen as a process of strategic commemoration, strengthening calls to extend the concept of 'sites of memory' to law.⁹⁸ For law insists on remembering, on eliciting multiple memories about what happened in the past, before authorising one version of that remembered past as the basis of actions in the future. Through documentation, it also materialises those memories, giving stories about the past a place in the present.⁹⁹ But law is

⁹⁸ Pierre Nora, 'Between Memory and History: Les Lieux de Memoire', *Representations*, 26 (1989), 7–24.

⁹⁹ Austin Sarat and Thomas R. Kearns, *History, Memory and the Law* (Ann Arbor: University of Michigan Press, 2002), Introduction by editors, pp. 1–24.

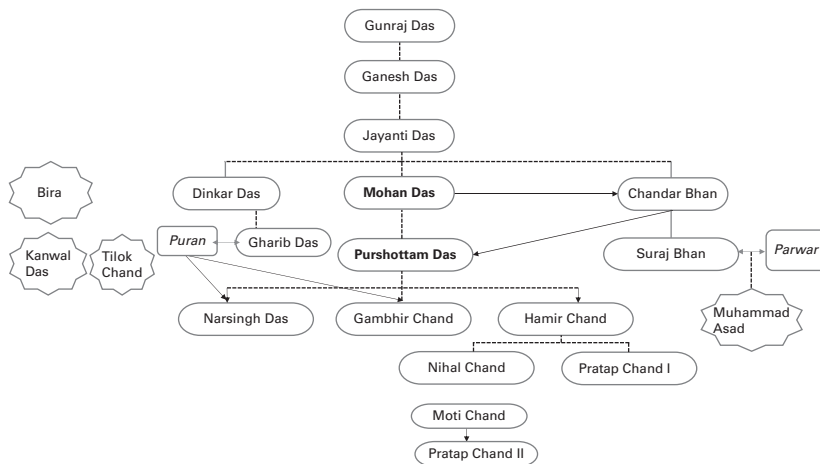


Figure I.1 Lines of descent, inheritance and rivalries

not an encrypting automaton: it is a field alive with purposive agents such as ours who told and recorded those stories; reinscribing but also reopening the narrative through repeated copying and notarising of rights-bearing documents; retelling antecedents that justified various futures. Ironically, law is our ally in reconstructing this family's conflict-ridden efforts, some of which were to remember, and others, to forget. The legally validated narrative that our documents produce is of course the dominant one; but since that narrative rests on disputes, we are afforded some glimpses of the other stories that may have been.¹⁰⁰

Is this, however, a collection of private papers? To try to answer that question from an early modern context is of course to immediately stumble upon the anachronistic division of private and public, which assumes people's ability to distinguish their interior self from their public roles, and by extension, a workable distinction between the state and what is not the state. We also have the additional problem of knowing painfully little about Mughal archiving practices.

¹⁰⁰ Natalie Zemon-Davies, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France* (Stanford: Stanford University Press, 1987). Zemon-Davies' work is however more useful in analysing the narrative and documentary strategies used by particular individuals and particular times. In thinking about the boundary and structure of the archive as a whole, I have been inspired by Paolo Sartori's recent work on archives in Samarqand and Khiva, and encouraged by Irfan Habib's methodology in his 'A Documentary History of the Gosā'ins of the Chaitanya Sect at Vrindāvan', in Margaret H. Case (ed.) *Govindadeva: A Dialogue in Stone* (New Delhi: Indira Gandhi National Centre for the Arts, 1996), pp. 131–3. Confronted with a very large and also highly dispersed archive – that pertaining to the temples of Mathura, Vrindavan and Jaipur – Habib has chosen to organise his calendar of documents around key protagonists, rather than chronologically or by repository.

It is obvious, however, that the existence of such documents requires us to release ourselves from a vision of archival records that derives essentially from the Ottoman empire after the sixteenth century; clearly, what people wrote and stored, and where, varied very widely from one Islamic empire to another.¹⁰¹ The history of Iran, as well as that of the Central Asian khanates of Khiva, Bukhara and Khokand, shows that the narrowly focussed quest for *qāzīs'* registers or *sijillāt* of adjudicated cases, following the Ottoman model, may be a red herring, leading to false conclusions regarding the place of Islamic law in other empires, perhaps even about the Ottomans. It is quite likely that in most parts of the Islamic world, the authorities did not find it necessary to create and maintain registers, whether recording the adjudication of disputes or the activities of many other branches of government. Instead, it was found sufficient to maintain regional stores of documents, mainly related to military recruitment and pay, while the onus was on people to maintain records of their specific entitlements, or transactions with others. While necessarily speculative, this proposition would seem to explain the creation of the family archive that this book is based on.

Orders as Legal Documents

The private–public divide, were we to keep pursuing it in characterising our documents, would become even more untenable as we looked through the contents of our collection closely. All forty-three of the documents now preserved in the DAI are a type of Mughal document called *parvāna*. Scholars and archivists studying documents produced during and under Mughal rule refer to the documentary types of the Mughal ‘chancellery’, with its hierarchy of documents, ranging from the *farmān*, which only the emperor could issue, through the *nishān*, which was in the gift of royal princes, to *parvānas*, which a range of high to middle-ranking nobles-cum-imperial-officials could issue. The picture of system and coherence they present becomes rather more blurred as we make our way down the hierarchy, or perhaps into a different documentary arena replete with generic orders called *hukums* and *dastaks*, but also interpersonal contracts of various kinds. Matters become even more unsure when we note that thus far we do not have single study of what can be called chancellery procedure – we do not know where exactly these offices were located, how many people worked in them, in what order the documents were written, super-scribed, checked, sealed and resealed, let alone how copies were produced and authenticated. All discussions of the Mughal chancellery assume an office at

¹⁰¹ Tomoko Okawara, ‘Reconsidering Ottoman Qadi Court Records: What Are They? Who Produced, Issued and Recorded Them?’ in Vanessa Gueno and Stefan Knost (eds.) *Lire et écrire l’histoire ottoman* (Beirut: Orient-Institut Beirut, 2015), pp. 15–37.

the imperial centre,¹⁰² with no reflection on the perpetual mobility of that centre, nor on the (also mobile) household offices from which high-ranking officials must have issued *parvānas* such as ours. As such, we have to work upwards from the documents, reading carefully what they say about the conditions of their own production, and relating them constantly with other documents, thus producing a story about the life of documents, as much as about the lives of people they reflect. This is the core of our jig-saw; but it will make sense as we invoke the broader textual field from whence these documents sprang – legal formularies, manuals of guidance for scribes and indeed, those always-disparaged but essential sources, the comments of outsiders who tried to do trade in India and struggled to make sense of this Persianate documentary world, while also acquiring their own share of ‘firmans’.¹⁰³

The word *farmān* was directly derived from the Persian verb *farmūdan*, to order. The *farmān* was a document that recorded an order of the emperor. In the Mughal empire, it was always written in Persian, on expensive paper (from Jahangir’s reign) beginning with two indented lines, and topped with the royal seal and *tughra* (cipher, or stylised rendition of the emperor’s name). They often had detailed inscriptions on the verso, with corresponding seals. As we move down the hierarchy, we have the *nishān*, the order of a royal prince, and the *parvāna*, that of a sub-royal, but high to middle-ranking official. The grammatical structure of *farmāns*, also of the lower-ranking *nishāns* and *parvānas*, was therefore always imperative – somebody was told to do something. As we shall see, orders and rights were not mutually exclusive matters; the order could consist of instructing somebody to take possession of certain entitlements.

Orders could be generic (Be good and loyal!) or specific (Go catch that thief!); they could create duties (Keep this village populated!) or entitlements (You may collect money from the peasants of this village, and do not need to pay taxes). Such duties and obligations were confirmed and modified by authorities other than the ones issuing them, and disputed in front of yet other authorities. We could say that some orders created rights, but that would be an inaccurate way of looking upon them; those orders that created specific entitlements were related to others that established the relationship that made the creation of such entitlements possible. Besides, orders led to other processes, which produced other kinds of documents – recording, for example, the resolution of a dispute by a *qāzī*, the sale of an entitlement, or a debt secured on the resource that the order entitled the holder to. In trying to identify where

¹⁰² Mohiuddin, *The Chancellery and Persian Epistolography under the Mughals*; also Mohammed Ziauddin Ahmed, *Mughal Archives: a Descriptive Catalogue of the Documents Pertaining to the Reign of Shah Jahan, 1628–1658* (Hyderabad: State Archives, 1977).

¹⁰³ See William Forster, *The Embassy of Sir Thomas Roe to the Court of the Great Mogul* (London, 1899), Vol. II, pp. 506–14.

'law' came from in Mughal India, it is this interlocking spectrum of orders and other documents that we look to in this book.

Tax as Contract

Now, the other two subtypes of documents in this collection are not *farmāns*, *nishāns*, *parvānas* or indeed orders of any kind. Instead, in language as well as substance, they are transactional, including one-way transfers as well as immediate or deferred exchanges (i.e., contracts). I have conceived of these contracts as two, rather than a single subtype, based on their contents, and that is because agreements about tax payments, although recorded in a contractual form, involve a rather special party – the state.

Of course, the state and its precise location has been the holy grail of Mughal historiography. If taxation and military action are the two clearest loci of the relatively unambitious early modern state, then our substantial cache of documents, related to the contracts underlying tax-collection can offer an important corrective to the unilaterally extractive and coercive view of the state. Rural entrepreneurs such as Purshottam Das and his family, well equipped with private armies, engaged with the state through the noble who held a salary-account in the taxes of the region, offering to collect the taxes for him, for an implicit profit, of course. The fact that the same man who took on this 'franchise' was also the tax-collector and the tax recorder of the region, ensured his access to the coercive machinery of the state, which was essential for making the enterprise a success. These contracts are recorded in predominantly bilingual (Persian and Hindi or Rangri) documents that call themselves *qaul qarār pattā-yi-ijāra*, and are completed by documents of *qabẓ al-vaṣūl* or receipts secured when the contracted amount was paid into the *jāgīrdār*'s treasury. However, there were always risks; a natural calamity such as a locust invasion might damage the harvest, competing landlords with their own private armies could attack the peasants, an unsympathetic imperial officer sent from the imperial court could demand extra cuts or different procedures. All such events required renegotiation of the deal, and produced a range of documents, but most importantly, *'arzdāshṭs* (petitions) which detailed the facts and sought to reopen the deal, with greater or lesser success.

Legal Deeds as Instruments of Law

Finally, the men (and women) of Mohan Das's family dealt not just with their superiors, but also with their social equivalents and servants. These transactions were also recorded in a range of documents, which we may be tempted to call 'legal deeds', but this term, as all others derived from specific legal

contexts, requires some modification. While English law defines a legal deed as an official written record of transfer of property, using the term in our early modern Islamicate legal context requires us to expand the definition to include all interpersonal transactions that create or fulfil entitlements or obligations. Consequently, this category includes documents recording not only sale and purchase, rent, mortgage, gift, debt and repayment, but also Muslim marriages and incidents to marriage and the manumission of slaves. These documents are self-identifying and marked by a distinct and formulaic vocabulary. Ironically, since these are transactions that were predominantly between members of the family and other non-Muslim protagonists, this is the document type that relates most closely to the documentary types described by Islamic jurists. They include *bāi-nāmas* (sale deeds), *rahn-nāmas* (pawn or mortgage deed), *hiba-nāmas* (gift deed) and so on. These identifying terms (*bāi*, *rahn*, *hiba*) relate to specific and highly developed areas of Islamic legal doctrine. They also contain stock phrases, some crucial ones in Arabic, which record the fulfilment of essential and widely known and practiced Islamic legal procedures. On the other hand, they bear phraseology and features that were distinctively Indian, and offer evidence of distinctive practices that are not discussed in any compendium of jurisprudence.

The Structure and Contents of Household Archives

The specific types of legal deeds extant in different collections of ‘family/private papers’ indicate the social matrices within which such families or corporate entities operated. For example, the complex, and currently scattered, collections of documents pertaining to the temple complex of Mathura, Vrindavan and Jaipur, developed by *vaishṇava* priests from Bengal, nurtured by Mughal imperial grants from the sixteenth century onwards and eventually engulfed by Kacchwaha Rajput nobles are exceptionally well-stocked with *farmāns* and *parvānas*, and in the later period with Rajasthani *parvānaus* – orders creating, affirming and transferring rights in lands, but also of custodianship over the temples themselves.¹⁰⁴ Then there are several deeds of sale and gift, again related to land and its produce, as the temple functionaries and villagers made various deals among themselves. All this creating and recording of rights then threw up a substantive number of disputes, leading to declarations (*iqrārs* and

¹⁰⁴ On the early history of the complex, see Irfan Habib, ‘From Arith to Rādhākund: the History of a Braj Village in Mughal Times’, *Indian Historical Review*, 38: 2 (2011), 211–24. On the Kacchwaha Rajputs, who formed matrimonial ties with the Mughal dynasty from the mid-sixteenth century, and whose scions rose to the highest ranks within the Mughal nobility permitted to anyone outside the royal bloodline, see Jadunath Sarkar and Raghuraj Sinha, *A History of Jaipur, 1503–1938* (Hyderabad: Orient Longman, 1968).

maḥzar-nāmas) and records of judgements in the local *qāzī*'s court.¹⁰⁵ A very similar spread of documents is seen in relation to smaller and less politicised sacred complexes – whether centred around an institution or certain persons. Orders predominate, including the highest status orders creating property rights, middle-ranking orders affirming and supplementing them, and lower-ranking orders dealing with the details of tax-collection and so on. As one works one's way through such collections, documents recording interpersonal transfers and disputes – related to the same property rights that the orders had created – inevitably begin to crop up, substantiating my arguments about the inseparability of orders from legal deeds.¹⁰⁶ Families of administrators with a flourishing side interest in commercial enterprise, on the other hand, created collections in which interpersonal transactions predominate. For example, the family collection of the Bhandaris from Batala, Punjab, was dominated by bonds and contracts of various kinds (*tamassuks*), gifts, loans, rental and mortgage agreements, quit-claims and records of disputes based on all of these.¹⁰⁷

In the collection produced by Mohan Das and his descendants, there are no surviving original *farmāns* or *nishāns* (although there are a couple of purported copies); the highest level that the family reached directly was to imperial nobility. Hence the substantial collection of *parvānas*, all from the *jāgīrdārs* assigned the region. The orders that these nobles issued created both entitlements and obligations for the family, giving them access to the taxes of several villages, but more importantly, to offices in the same area – all concentrated in the district of Dhar, and spilling onto the neighbouring districts of Amjhara, Dewas, Nalcha and (the now-disappeared) Hindola.¹⁰⁸ It is in these very areas that the family undertook tax-collecting contracts and it is also here that they entered into endless interpersonal transactions – over money, property, offices and even lives.

¹⁰⁵ Habib, 'A Documentary History'; for a detailed calendar, transcription and translation of documents issued exclusively by the chancery of the Kacchwaha nobles, including from the later period, when the idols of Govindadeva and Thakurani (Krishna and Radha) were taken to Jaipur and housed in a new complex there, see Monika Horstmann, *In Favour of Govinddevji: Historical Documents Relating to a Deity of Vrindavan and Eastern Rajasthan* (Manohar: Indira Gandhi National Centre for the Arts, 1999). These documents are bilingual (Persian–Rajasthani) and from 1712, in Rajasthani only.

¹⁰⁶ B. N. Goswamy and J. S. Grewal. *The Mughals and the Jogis of Jakhbar: Some Madad-i Ma'ash and Other Documents* (Simla: Indian Institute of Advanced Study, 1967); Irfan Habib, 'Aspects of Agrarian Relations and Economy in a Region of Uttar Pradesh in the 16th century', *IESHR*, 4: 3 (1967), 205–32, in which he discusses the Bilgram and Shamsabad document collections of the Aligarh Muslim University Department of History Library.

¹⁰⁷ J. S. Grewal, *In the By-Lanes of History: Some Persian Documents from a Punjab Town* (Simla: Institute of Advanced Study, 1975).

¹⁰⁸ Hindola district, adjoining Amjhara existed as late as the 1920s. *Report on the Administration of the Dhar State, 1920–21 to 1925–26* (Dhar, n.d.).

The Identity of Law

Where then, in this story, is Hindu law? When, the reader might ask, do we get to hear about how the *dharmaśāstras* regulated the lives and matters of Hindus such as these, in unadulterated precolonial times?¹⁰⁹ To answer that most directly and simply: there is no indication, anywhere in the collection, that the people whom we glimpse through these documents, had any awareness of an entity that we might call ‘Hindu law’, or that they expected or wished their transactions and disputes to be mediated by it. In fact, there is no explicit indication that the various parties – members of the family and their associates, the nobles involved, even the *qāzī* who routinely turned up to notarise documents and mediate disputes, were working with the notion of an alternative body of non-Islamic law, related to any identifiable jurisprudential tradition. What we have in the orders, agreements, transactions and disputes are regular references to *sharī‘a*, as a body of norms without any reference to specific doctrines, but more often simply in adjectival form and in the sense of ‘legal’ or ‘valid’; for example, when describing the validity of transactions or testimonies recorded. We have one explicit reference to *‘urf*, or custom, again, without explanation as to what the custom amounted to, and several references to *dastūr* – rules, customs and/or entitlements based on these.

There is of course the possibility that the cache of documents that I have been able to retrieve represents only a portion of the household archive. It is possible that the family may have deferred to local single or multi-caste *jātī* councils, and even appealed to transregional Brahmin assemblies for the resolution of matters that related specifically to marriage, children, ritual status and so on.¹¹⁰ I find it hard to believe, however, that records of such deliberations and decisions would be so systematically and completely lost from the family’s collection, when in corresponding collections from the Marathi-writing zone, where such *jātī* and Brahmin councils were most effective, such documents have been most carefully preserved. Moreover, in one spectacular dispute from the late seventeenth century, where the legitimacy of a marriage of a member of the family and the legal status of his child was called into question, we see a panel of *qāzīs* making the decision, with no mention at all of any caste or religious council having been consulted. Rather than assuming the uniform

¹⁰⁹ On *dharma* or righteousness as an area of expertise and exposition within the Sanskrit scholastic tradition, see P. V. Kane, *History of the Dharmaśāstra (Ancient and Mediaeval Religious and Civil Law in India)* (2nd ed., 5 vols., Poona: Bhandarkar Oriental Research Institute, 1968–77); on the more narrowly ‘legal’ implications of *dharma*, its continuities and transformations in colonial and post-colonial India, see J. D. M. Derrett, ‘The Administration of Hindu Law by the British’, *Comparative Studies in Society and History* 4: 1 (1961), 10–52.

¹¹⁰ Rosalind O’Hanlon, ‘Speaking from Siva’s temple: Banaras Scholar Households and the Brahman “Ecumene” of Mughal India’, *South Asian History and Culture*, 2: 2 (2011), 253–77; Rosalind O’Hanlon, ‘Letters Home: Banaras Pandits and the Maratha Regions in Early Modern India’, *Modern Asian Studies*, 44: 2 (2010), 201–40.

presence and effectiveness of Hindu law as a shorthand for caste and religious councils and their preferred normative systems, it maybe more useful to learn of the specific historical and social conditions under which, for example, transregional assemblies of Marathi Brahmins acquired adjudicative power in the seventeenth century.

Moreover, in looking for Hindu law, we may be committing a conceptual error, thinking of 'law' as a body of abstract rules detached from the social relationships that it was intended to mediate. This is not to suggest a free-for-all, in which goons of various sizes settled matters by force, the rest being mopped up by some form of *kadijustiz*.¹¹¹ If nothing else, all categories of these documents are mutually self-referencing, thus whether considering an order, a contract or a dispute, documents refer to recorded rights; neither might nor tradition are cited as sufficient bases of entitlements. Also, they are highly regular – they clearly follow prescribed formulae: in the third sub-category of transactional documents, these formulae and conventions are those that would be recognisable throughout the Islamic world. Where does that leave us? If we conceive of our documents as the products of a system of Islamic law, modified by local custom, we are still thinking in terms of distinct jurisprudential traditions (Islamic law; customary law) and we are left with the rather unsatisfactory position of not knowing how people, including the judges, knew when to refer to the one and not the other. We also end up privileging about a third of the documents (the transactions recorded in Islamic legal forms) over the others, failing to incorporate the orders and contracts into the world of law, although they were clearly connected. Another explanatory possibility arises from the rather more insubstantial set of discussions regarding the Chingissid and Timurid legal heritage in Mughal India and its possible displacement by or coexistence with Islamic law. But while there were repeated references to the *yasa* of Chingis Khan, or the customary law of the Mongols, across the Islamic world, the scholarship does not suggest that this amounted to more than political ideology and practice of incorporation, exercised through court ritual, patronage of shrines and wartime behaviour.¹¹² It certainly does not appear to be a code of law, let alone a code of law detailed enough to deal with the petty entitlements of Indian village bosses. This leaves rather a lot more to be said about entitlements and obligations tied to Indian land, before we can make judgements about the genealogy and typology of those claims.

Here, I propose a tentative solution. I propose that 'law in Mughal India' consisted of rules derived from a number of sources – royal and sub-royal orders, administrative conventions and rules, Islamic jurisprudence and local

¹¹¹ For a discussion of Weber's concept of *Kadijustiz*, see earlier in this chapter.

¹¹² Balabanlilar, *Imperial Identity in the Mughal Empire*, pp. 10–11; Mathieu Tillier, 'Courts of law, historical', in *Encyclopaedia of Islam*, THREE.

custom – ‘Islam’ providing a general sense of order, together with royal grace.¹¹³ *Dharmaśāstric* notions, for example, of exclusively male agnatic lines of inheritance may indeed have found their way in via local custom, or, if we follow the findings of Donald Davis with regards to a very comparable collection of material related to a temple town in Kerala, such local customs fed into Brahmanical jurisprudence.¹¹⁴ Unlike Davis, however, I have not found a regional jurisprudential text – Brahminical or Islamic – that rationalises the observable legal practice as a coherent whole. For this work, it has been more productive to explore other bodies and sources of rules that clearly existed across the Mughal Empire, which multiple groups of specialists had systematic understanding of. By this I mean formularies that provided legal models and manuals of administration; while these do not present anything like jurisprudence, they offer a systematised view that may have informed the work of petty professionals, whose interests lay less in academic theory and more in getting the work done.

But I am not proposing to distinguish and separate specific elements and interpretively attach them to distinct legal traditions – this is Islamic law, that is administrative tradition, that again is custom. The documents that this book is based on suggest that my protagonists expected there to be systematic bodies of rules that could determine their entitlements; but this ‘law’ of theirs was that specific mixture that their social and geographical location exposed them to. There is no indication that they saw themselves as engaging with an eclectic system – Islamic law in parts and not in others – it appears that they saw it all as ‘law’. If sectarian affiliation had any effect on determining the specific mix that a specific protagonist would recognise as law, it is not clear what that effect was, and it is certainly not in line with our present-day expectations. The predominantly Hindu protagonists in my story did not call for a specific ‘law of Hindus’ when disputing inheritance claims with their kin, for instance. The necessarily incomplete but nevertheless large archive I have been able to reconstruct reveals no pristine area of genealogical and affectionate relations immune to Islamic law where a recognisably ‘Hindu’ law and authority might prevail. Families were built and splintered around property and offices; royal orders, active contracting and recorded/reputed entitlements constituted a field in which records were produced using recognisable, but semantically open-ended, juridical forms and vocabulary.

¹¹³ This is also the suggestion in Corinne Lefèvre, ‘Beyond Diversity: Mughal Legal Ideology and Politics’, in Gijs Kruijtzer and Thomas Ertl (eds.) *Law Addressing Diversity: Premodern Europe and India in Comparison (13th-18th Centuries)* (Berlin: De Gruyter, 2017), pp. 116–41, specifically pp. 117–19.

¹¹⁴ Donald Davis, ‘Recovering the Indigenous Legal Traditions of India: Classical Hindu Law in Practice in Late Medieval Kerala’, *Journal of Indian Philosophy*, 27 (1999), 159–213.

The Story and the Structure

The core of the story of *Negotiating Mughal Law* is set in seventeenth- and eighteenth-century Malwa, straddling the reigns of last two ‘great’ Mughal emperors – Shah Jahan and Aurangzeb Alamgir. There is a slim long tail to that story, based on a thinner trail of records, that patchily but surely establishes the continued fortunes of the family through major political upheavals, as first the Marathas, and then the British took control of the region. Chapter 1 creates the setting. It discusses Malwa’s political geography as it evolved from the late medieval period until the end of our story. It describes the dramatic and diverse landscape in its relationship with the local nodes of military and royal power, especially of those who referred to themselves broadly as Rajputs, and specifically, as *Rāthods*. This includes those clans that congealed into states and those that remained more fragmentary, but all connected by a supra-regional notion of the land of Rajputs. On that real and imagined landscape is then imposed the arcs of military and commercial movements, evoking a zone that is defined both by entrenchment and mobility. This is offered as an essay on historical space, within which the protagonists of this story created an area of operations and entitlements for themselves, negotiating with successive and overlapping empires, wresting and recording their rights through all of them.

Chapter 2 introduces the protagonists and tells their story through the documents of order, issued by the occasional imperial prince, perhaps an emperor, but mostly, by high-ranking imperial nobles posted to the region. Together, these emanations of royal grace and authority, direct and delegated, explain the accretion of entitlements. They also allow us to retrace the process of structuration of a dominant line of the family – to the exclusion of other claimants who continue to haunt the edges of the story, producing creative tension and legal action. Emperors, princes and great nobles come and go in this chapter, giving orders and making grants, bringing the empire into the village and remaking it in the process. What remains constant is war, which both necessitates imperial intervention and provides opportunities for military entrepreneurs, such as members of this family, to work within unsubdued inner frontiers of the Mughal empire and lend themselves to the regime in order to ride to glory and wealth, at least on a local scale.

Chapter 3 discusses the business of tax-collection and uses tax contracts and associated documents in the collection in order to reveal how our family came to populate and dominate the extraction machinery of the state in their district and around. Showing how military prowess and sharp dealing were not mutually exclusive, we see how administrative offices, and a variety of transactions over associated perks, were yet another source of aggrandisement of this family of rural eminent. As such, this chapter speaks to the literature on the social history of Mughal and post-Mughal scribes and proposes correctives

to the theoretical division between the worlds of the sword and the pen. It also widens the question of 'law', and explores further the range of vocabularies used to refer to it.

Chapter 4 uses documents in the collection that record interpersonal transactions, using it both to map the network of kin, creditors and employees that our protagonists lived in, and the specific procedures and documentary forms they used to record those transactions. The material used in this chapter allows it to address the literature on documentation and its procedures in Islamic law, explore the specificities of the Mughal Indian context and comment on their implications. In engaging with that literature, however, I will attempt to connect the documents in this collection to their precise modular source-texts. This will entail a discussion of Persian-language formularies called *munshāts*, which overlapped a little but also widely diverged from Arabic-language *shurūṭs* the latter usually appended to books of jurisprudence. From that textual matrix, the chapter will then proceed towards an exploration of the linguistic landscape in which these documents were located, opening up the 'Persianate' to reveal the multiple heteroglossic dispensations the term implied in Mughal India.

Chapter 5 looks at disputes and uses these recorded moments of friction to flesh out the interpersonal dynamics of the people in the story, and also investigate the notions of jurisdiction revealed by the disputants in taking their quarrels to specific tribunals at specific times. It then focusses on a major dispute in the family's history – in which a Muslim man tried to argue that he was part of this Hindu family, and was entitled to share in its possessions and privileges. After narrating what we can recover of the dispute and its long-drawn resolution, the chapter then reflects whether this dispute over inheritance – and also over belonging, entitlement, religion and family – may indeed have been the reason for the production of much of the documentation in the family's collection. Through a bald statement of rights, such documentation may have been specifically aimed at erasing a man and a woman who had a different story to tell.

Chapter 6 discusses the political turmoil that befell the region in the early eighteenth century, and the tortuous process of the region moving into Maratha country, and the consolidation of the Puwar dynasty. Using a highly evocative but strikingly less voluminous documentary cache, this chapter outlines negotiations undertaken by members of the family with these new rulers, and continues the story of that tense relationship into the nineteenth and twentieth centuries, when the Puwars were themselves compelled to submit to the supervision of an overweening British Empire. This chapter allows us to revisit, albeit passing, some of the key ideas regarding the history of Persianate legal cultures, and to propose that this culture proved to be more resilient, and more pliable, than it may have previously been imagined to be.

Chapter 7 comments on the *Kāyasth* caste identity of the family, noting how, despite displaying various well-known characteristics of this archetypical Indo-Islamic service group, the family devised a specific self-identity to address its martial history. The chapter uses a family history narrative, possibly produced in the early nineteenth century, and reproduced several times in various languages and scripts (including as an annex to a petition to British authorities in the twentieth century). It uses that highly evocative narrative in conjunction with the material traces of self-conceptualisation left in other documents, such as identity markers and seals placed in the margins, to reveal a self-conceptualisation far more martial, and in communication with Rajput models of being, than the existing literature on Indo-Islamic scribes would suggest. That discussion then offers us the opportunity to map the relevant relational matrix of caste on the one hand, and to investigate the place of language in self-expression and self-identification on the other.

In the conclusion, we shall return to an evaluation of the micro-historical but also ‘big-data’ methods that may be used in conjunction in order to analyse documentary collections such as this one. It offers a demonstration of the kinds of enquiry that a reconstructed household archive and consequent serialised data can support. The aims, as in this book, are not to produce social history abstracted from individuals but rich narrative history that reaches much deeper down into the social fabric than may have been previously imagined. The book thus ends with a manifesto for reconstructing multiple archives and working towards narrative coherence within each. Only then can we make sense of the vast repositories of source material on early modern Indian history that is ubiquitous but meaningless without a story.