

4 Transactions: Recording Deals

Pirates, as Lauren Benton has shown us, could be as law-savvy as lawyers.¹ Early modern oceans were violent places, but they were not lawless in the sense of being empty of law. When they were done with their swashbuckling, or were put in a tight corner, especially by the unsystematic reach of rising imperial states, the most terrifying of pirates fished out their legal documents with which they declared loyalty to specific sovereigns and the legality of their actions. Even if a vital letter of marque, which could turn a pirate into a privateer with a magical swish, failed to make its appearance in court, whether because it was lost, or because it had never existed, pirates who had had the gall to capture Mughal ships, threaten the trading status of the East India Company and chance the wrath of both, still argued until the end that such papers existed, and all they had done, had been done within the law.²

It was no different in the land-locked Mughal province of Malwa. There, in the district of Dhar, the descendants of Jayanti Das had clearly built up an interlocking resource base by clearing land, being headmen of villages, assisting the state in tax-collection and maintaining order and receiving various grants of tax-free lands in return. In their own view, the entitlements of the family and its individual members derived from their military prowess and service, and imperial grants and the reiteration thereof, which produced their very own ancient custom or right (*dastūr-i sābiq*), specifically, to collect taxes.³ Being local strongmen partially recruited by the Mughal military-administrative structure did not, however, stop them from constantly transacting with a variety of local actors, and meticulously recording such transactions within a predictable range of legal deeds.

These legal deeds, which include documents of sale and purchase, rent, mortgage, gift, debt, repayment and, more exotically – blood-money, open up for us a world of commercial transactions, charitable activities and interpersonal

¹ Benton, *A Search for Sovereignty*.

² As William Kidd did, albeit unsuccessfully, when he was tried in the Old Bailey in 1701 in connection with his capture of the ship *Queddah Merchant*. Robert C. Ritchie, *Captain Kidd and the War against the Pirates* (Cambridge, MA: Harvard University Press, 1986).

³ See Introduction and Chapter 2.

exchange of property and obligations. As we have already seen, the modernist divisions of private and public, state and society are not particularly helpful in analysing the location and functions of our heroes and their activities. It is also important to relax the conceptual constraints of a term embedded in English law, in which a deed implies a record of property transfer. In our case, we have a much wider range of transactions recorded in the non-imperative documents of our collection. These documents are therefore best considered as written and authenticated record of transfers of entitlements and/or obligations, including, but not limited to, those involving physical property or money.

As the record of transactions voluntarily entered into by individuals and actors without direct pressure from or direct reference to the state, they offer us a particularly fertile source-base from which to explore everyman's engagements with law in the Mughal empire. In scholarship on other Islamicate contexts, legal deeds (typically of sale, purchase, endowment, gift, rent, mortgage, debt, marriage and so on) have been used to construct the social history of a region, or of a specific community, producing the 'human side' of broader political and commercial histories.⁴ In a comparable fashion, such documents in Mughal India have been used to excavate the local structures of power, the workings of the local government structures and formation of wealthy religious complexes, the last also serving to illustrate the complex patronage patterns of Indo-Islamic kingship.⁵ In the Indian case, the status of such records as historical sources remains distinctly secondary to royal and sub-royal orders and chronicle histories, and several of the works listed in Footnote 4 are in the nature of valuable source-books, rather than historical arguments.

Recent historiography, especially in the burgeoning and diverse field of Islamic law, has added several new angles of enquiry that can be pursued using legal deeds as sources. One approach that I find particularly useful is the one suggested by Brinkley Messick, who, while exploring the *textual habitus* in nineteenth- and twentieth-century Yemen, suggested that legal documents stand in front of a world of transactions, and represent a reality filtered and codified through legal principles and categories.⁶ This idea has recently been applied by Fahad Bishara to the world of Indian Ocean

⁴ Nobuaki, *Persian Documents*; Shaul Shaked, 'Early Persian Documents from Khorasan', *Journal of Persianate Studies*, 6 (2013), 153–62; Fatiha Loualich, 'In the Regency of Algiers: The Human Side of the Algerian Corso', in Maria Fusaro, Colin Heywood and Mohamed-Salah Omri (eds.) *Trade and Cultural Exchange in the Early Modern Mediterranean: Braudel's Maritime Legacy* (London: I.B. Tauris, 2010), pp. 69–96; Christoph Werner, *An Iranian Town in Transition: A Social and Economic History of the Elites of Tabriz, 1747–1848* (Wiesbaden: Harrasowitz, 2000); Werner, *Vaqf en Iran*.

⁵ Goswamy and Grewal (eds.), *The Mughals and the Jogis of Jakhbar*; Grewal, *In the By-Lanes of History*; Habib, 'From Arit̥h to Rādhākund'; Horstmann, *In Favour of Govinddevji*.

⁶ Brinkley Messick, *The Calligraphic State: Textual Domination and History in a Muslim Society* (Berkeley: University of California Press, 1993), p. 227.

commerce. Bishara's work is centred on the instruments for recording obligations of debt, generically known as *waraqā* (paper), that merchants from all around the ocean used in their transactions. Bishara showed both how the scribes (*kātibs*) who penned these documents used recognisable formula that codified the intensely diverse world of oceanic commerce within the recognisable, and legally cognisable Islamic legal language of contracts.⁷

The terminology used in the documents cited by Bishara, Messick, Werner and all scholars working on Islamic legal deeds is one that is instantly recognisable far beyond their immediate provenance. That is because they were written using a truly global vocabulary, whose key terms for describing transactions, such as: sale (*bai*'), mortgage (*rahn*), lease (*ijāra*), gift (*hiba*); or legal actions, such as: declaration/confession (*iqrār*), denial (*inkār*), witnessing (*shahada*); or legal actors, such as: claimant (*mudda*'), respondent (*mudda*' *'alai-hi*), deponent (*mukhbir*) were largely identical, whether the documents were scribed in Morocco or Bengal. That similarity derived from the connection of such legal deeds with a long-established genre, that of Islamic legal formularies, known as *shurūt* or *wathāiq*. Works of *shurūt* were first produced around the ninth century CE, and written by eminent Islamic jurists, who, with the expansion of Islamic empires and the consequent elaboration of administrative and adjudicative institutions, were concerned to guide people on how to produce legally cognisable documents.⁸ Books of *shurūt*, which dealt with the sort of 'private contracts' that we are dealing with here, were often combined with books on *mahẓars* and *sijills* (Arabic plurals: *mahāẓir va sijillāt*), that is, documents recording adjudication proceedings in *qāzī*'s courts. And both these kind of formularies often formed part of even larger works: compendia on Islamic jurisprudence or *fiqh*.⁹ Given Islamic law's formal insistence on the superiority of oral testimony over documentary evidence, there is an unresolved debate among scholars about the significance of this prolific genre; older scholarship suggested a pragmatic but doctrinally incoherent effort to associate doctrine with practice,¹⁰ whereas more recent works suggest that the formulary literature was a logical outcome of the

⁷ Bishara, *A Sea of Debt*.

⁸ Jeanette Wakin, ed. and trans. *The Function of Documents in Islamic Law: The Chapters on Sales from Ṭaḥāwī's Kitāb al-shurūt al-kabīr* (Albany: State University of New York Press, 1972), 9–29; Wael Hallaq, 'Model *Shurūt* Works and the Dialectic of Doctrine and Practice', *Islamic Law and Society*, 2: 2 (1995), 109–34.

⁹ For an introduction to *fiqh*, see Wael Hallaq, 'From *Fatwās* to *Furū*': Growth and Change in Islamic Substantive Law', *Islamic Law and Society*, 1, 1994, 29–65; for a more detailed exposition, see his *Sharī'a: Theory, Practice, Transformations*.

¹⁰ On this conflict, see N. J. Coulson, 'Doctrine and Practice in Islamic Law: One Aspect of the Problem', *Bulletin of the School of Oriental and African Studies*, 18: 2 (1956), 211–26; N. J. Coulson, *Conflicts and Tensions in Islamic Jurisprudence* (Chicago: University of Chicago Press, 1969)

efforts of jurists and evidence of the alignment of jurisprudence with the processes of adjudication.¹¹

Bishara's study of legal documents used in Indian Ocean commerce shows that the conflict between doctrine and practice could arise from several other sources. At the most superficial, this may be a matter of form, for example, the need for an appropriate family name or *nisba*, which could require a cosmetic re-coding of the names of the parties involved in order to cater for non-Arab and non-Muslim protagonists. Thus the Gujarati Bania merchant Ladha Damji would be called Ladha bin Damah Al-Banyani in a document from nineteenth-century Zanzibar, which recorded complex credit transactions. 'To trace back the ancestry of' – *nasaba* – was an active and meaningful verb for jurists who wrote Arabic-language formularies, as well as scribes who actually penned these Indian Ocean commercial documents.¹²

More seriously, Bishara's documents reveal a host of legal fictions, used to contain a huge range of property transactions within the doctrinally valid limits of Islamic law. In fact, Bishara shows that while 'jurists suspected that alliance between commercial actors and *kātibs*, could potentially conceal illicit gains', they were powerless to stop just such transactions being recorded, because they were simply too far away from the site of commercial activity and recording. Many jurists ended up taking an actively permissive view towards legal devices, such as the *khiyār* or 'delayed' sale, which could be suspected of circumventing Islamic injunctions against usury.¹³ In their 'creative thinking', such jurists used analogies to expansively interpret that doctrines of Islamic law to fit current realities. Devices permitted through such analogical reasoning are very similar to the 'legal fictions' of English law. These are not fabrications in the lay sense but professionally shared and legitimate devices for representing a reality that was particularly unwieldy, and which would otherwise not be amenable to legal action.¹⁴ Law does indeed make a certain reality for its own use; a reality that is not just fiction because it determines how people and things are disposed of. The vocabulary of Islamic *shurūṭ* just made legal reality in a certain form. It is rather sterile to be pushed by such discoveries into the debate over the gap between doctrine and practice in Islamic law, for wider scholarship reveals that law's need, as well as ability to sublimate unique and

¹¹ Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon, 1964), 82; see also Wakin, *Function of Documents*, pp. 4–10; Hallaq argues against these formulations.

¹² Bishara, *A Sea of Debt*, pp. 69–70.

¹³ *Ibid.*, pp. 90–9; in doing so, Bishara took Patricia Risso's suggestive proposition that a shared understanding of Islamic commercial law undergirded Indian Ocean commerce much further. Patricia Risso, *Merchants and Faith: Muslim Commerce and Culture in the Indian Ocean* (Boulder, CO: Westview Press, 1995) pp. 104–6.

¹⁴ That is, until they fell prey to the reformist drives of nineteenth-century English law reformers.

eccentric social reality into legally cognisable records, universally involves creativity as well as distortion.¹⁵

The question for us really is what form that creativity takes in specific contexts, and why. Asking that question allows us to approach legal deeds as cultural artefacts, in the sense of being products of a specific institutional, doctrinal, textual and scribal milieu. In early modern Islamic empires, such as that of the Mughals, such milieux were inevitably multi-confessional and multi-lingual with distinct regional dispensations of those pluralities. In characterising legal documents produced by and for this family of landholders in Malwa, we need to use a number of nominative categories, such as Islamicate, Persianate, Mughal and Indic, and do so while reflecting on the accuracy and explanatory value of each. As we shall see, despite the recognisable legal vocabulary, many of the Persian documents produced by this family had no exact counterpart in Arabic-language *shurūts*. Instead, they were most directly modelled on Indo-Persianate formularies called *munshāts*, which were a prose genre whose contents owed at least as much to the chancellery practices of Persianate empires, as to the doctrines of Arabic-writing jurists.¹⁶

But we shall not retreat into dealing with legal documents as pure texts, and instead attempt to reconstruct (through what is bound to be fragmentary evidence), the social locus in which they were produced. I am working with the idea that understanding the legal and formulary culture from which these documents were derived, is necessary for understanding how and why people represented themselves and their interests in a certain way.¹⁷ Properly viewed, these legal deeds are fragments of a historical mirror which offers us inevitably distorted glimpses of the lives they record. They are episodic and in a particular fashion.¹⁸ Just as archives of criminal justice record instances of deviation and/or dispute over what is good and what is not, and are thereby useful if letting us discover what people thought was normative,¹⁹ these legal deeds record smaller moments – of engagement, disengagement and dispute over the terms of the making of such social and economic relations.

¹⁵ Kathryn Burns, *Into the Archive: Writing and Power in Colonial Peru* (Durham, NC: Duke University Press, 2010); Kathryn Burns, 'Notaries, Truth, and Consequences', *American Historical Review*, 110 (2005): 350–79; Chatterjee, 'Mahzar-nāmas in the Mughal and British Empires.

¹⁶ And thus here I differ from Paolo Sartori regarding the sources of such legal formulae; Sartori, 'Colonial Legislation Meets Sharī'a', 43–60, note 56.

¹⁷ Paolo Sartori, 'Introduction: On the Social in Central Asian History: Notes in the Margins of Legal Records', in P. Sartori, ed., *Explorations in the Social History of Modern Central Asia (19th–Early 20th Century)* (Leiden: Brill, 2013), 1–22.

¹⁸ E. P. Thompson's well-known formulation: 'History is made up of episodes' in his 'The Peculiarities of the English', in *The Poverty of Theory and Other Essays* (New York and London: Monthly Review Press, 1978), p. 275.

¹⁹ Christopher Brooks and Michael Lobban (eds.), *Communities and Courts in Britain, 1150–1900* (London: Hambledon, 1997).

The specific transactional moments that these legal deeds record peg out the matrices of the social and commercial life of people captured therein, such as this family of landholders–tax officials–strongmen. Quite like the Indian Ocean mercantile documents discussed by Bishara, these documents from Malwa also map onto the recognisable terminology and formulae of Islamic law, but they also relate to their geographic and social location. Consequently, while the collection of papers related to families of merchants from the port cities Surat and Khamabayat are replete with deeds of sale, purchase and rent agreements, the contract most often entered into by members of this family of landholders-cum-officials-cum-strongmen was in fact that of revenue farming, or *ijāra*, which we have discussed in Chapter 3. In this chapter, we shall deal with the other kinds of property transaction evidenced in this collection, such as gift-giving, loan-taking and repayment, which involved less direct engagement with mechanisms of the state. However, such debts were sometimes secured on projected revenue collections, closing the circle of taxation and transactions and revealing the fluid boundary between state action and social exchanges at the lowest, that is, village level in Mughal India. Following the trajectory of such circles allows us to think carefully about the category of law, and the place of the state within it.

Legal deeds also happen to be the only sub-set within this collection where one is able to catch a glimpse of women in what might otherwise appear to be a highly militarised world swarming with macho men. Gifts and transfers effected and recorded by such women alert us to the mutual enmeshing of statecraft, property-holding and kinship. However, this is not harem politics writ small; women of this family who executed such legal deeds did so within a shared world structured by tax, rent and Islamic legal categories, as much as marriage and reproduction. Moreover, it so happens that women of the Purshottam Das family appear not as appendages to transactions negotiated to men, but as agents in their own rights, with surprisingly loud and clear voices of their own.

When people transacted among themselves, as opposed to receiving the fruits of grace of the great and mighty, they liked to do so in a way that would make the transaction binding and secure in law. But they also liked to make an additional effort to make sure that they understood what they were signing. We have seen how the Mughal's contractual approach to tax-collection lent itself to a vibrant multi-linguality in the associated contracts – the *qaul qarār paṭṭa-yi ijāra* that collectively formed the *kāghaz-i khām*, the lowest level of rental records in Mughal India. People's various and variable facility in multiple languages also made itself felt in legal deeds, typically through marginal comments, attestations and seals and validation symbols in a variety of languages and scripts. And so these documents offer us not only a substantive corpus of non-literary evidence for studying the history of development of languages in India, but also offer us a rare

opportunity for reconstructing the social context of multi-linguality in early modern India, with an eye on those little experts, the scribes, who have drawn so much attention from scholars in recent times, and among whose ranks our *qānūngōs* may have belonged. When such men (and women) wanted something written down, what would it be?

Gifts – and Curses

Unsurprisingly, it was most frequently about money or property changing hands. This could include transfers within the extended family, including its female members, which indicates a high level of formal individuation of titles, as well as the perceived need to legally record alterations, even within the affective and kinship matrix. Gifts are a favourite with anthropologists for their ostensibly non-transactional format, which epitomises the creation, iteration and modification of what purports to be extra-economic relationships. Islamic jurists, on the other hand, always classified them together with other transactions of property such as sale and pawn, naming it '*hiba*' and prescribing elaborate rules for completing such a transaction validly, and recording it securely. In the one document in our collection that records the making of a gift by a female member of the this extended family, we are offered a tantalising glimpse of its kinship and property dynamics, and also a rather striking picture of how Islamic legal terminology and forms circulated and combined with other forms and means of validating such transactions on paper.

In 1690, the thirty-third year of Emperor Aurangzeb's reign, a woman called Puran gifted eight villages, a garden and two houses to Narsingh Das and Gambhir Chand, the sons of Purshottam Das.²⁰ She called herself the 'legally wedded wife (*mankūḥa*)' of Gharib Das, son of Dinkar Das, son of Jayanti (?) Das and uncle of Purshottam Das. In her own words, Puran made over these properties, which had been in her sole title (*patta bilā sharkat*) to her cousins-in-law of her own accord (*ba-razāmandī-yi khūd*), considering them her children (*ba-jā-yi farzand dānishte*). This assumption of generational superiority and generosity came with some conditions attached, for she noted that the beneficiaries had 'performed the duties of children (*khidmat-i farzand-i ba-jā āwarde*)'. Given their dutifulness, whatever that may have consisted of, she gave them a 'rational deed (*sanad nātiq*)' (i.e. created in the legally necessary state of rationality), warning off anybody who may make claims on these properties in future.

The cryptic contents of this gift deed suggest that there was rather a lot going on in the background. How did this woman come to acquire sole title or *paṭṭās* of eight villages, and what did those titles consist of in terms of her

²⁰ NAI 2733/29 (1690).

entitlements? The inventory beneath the main text of the document grouped the villages into *muqadammī* and *dāmī* – which, as we have seen before, pertained to the rights of *chaudhrīs* (alternatively, *muqaddams*) to collect a share of the peasant's produce, as a putative salary for their work for the revenue machinery of the Mughals. We know already that while in theory *chaudhrīs* were state officials, they were also co-opted village headmen, their positions normally inheritable, although subject to ratification, and occasional alteration, within the family, by the *jāgirdārs*, with whom negotiations were constant, and tense. Puran was likely to have been childless, or at least son-less, and perhaps her husband and father-in-law had died. If so, then despite inheriting the *paṭṭās* of their *chaudhrāīs*, she may have been constrained by her gender and unable to undertake the full range of *zamīndārī* duties, especially the occasional military and policing services. There were of course a small number of notable women *zamīndārs*; some were encountered by the British in late eighteenth-century Bengal,²¹ but by then the need to provide military duties had disappeared; strong-arm men could do the rest. It was probably harder to manage that in late seventeenth-century Malwa. If she had, in fact, become isolated through a combination of unfortunate life-cycle events, Puran may not have made the transfer entirely of her own free will, but document still made a note of mutual obligations. We do not know what exactly the 'duties of children' were, but she may have negotiated for a maintenance. In any case, as a result of this transfer, villages located further north, in what would later become the princely state of Sitamau, came into possession of the main and most successful line of the family.

Puran's deed of gift, of which we only have a copy, is a striking example of both the penetration of law into the interstices of rural society and family life in Mughal Malwa and a record of the variety of influences that went into shaping the language and valences of that law. The original deed had been sealed by 'shari 'at panāh qāzī Muhammad Muhsin' and bore two dates – the regnal year, as well as the Faslī year, that is, the solar Hijri year invented by Akbar and used in all revenue-related documentation. The lunar Hijri year was absent, as was the word 'hiba' itself, but the document reproduced the necessary Islamic legal formulae for making valid gifts, such as noting the absence of co-sharers, and the presence of free will. The donor, Puran, referred to herself as 'mankūḥa', specifically using the Islamic legal term *nikāḥ* for marriage, in place of possible alternatives: the more generic *jauza* in Arabic or *zan* in Persian. No doubt she chose 'mankūḥa' to record her unassailable legal status, and hence unquestionable right to the *paṭṭās* she had inherited. But in the end, she stepped beyond

²¹ For example Rani Rashmoni; later women *zamīndārs* were essentially regents for minor male heirs. See Sonia Nishat Amin, *The World of Muslim Women in Colonial Bengal, 1896–1939* (Leiden: Brill, 1996), p. 15.

mere formulae, and had it recorded, 'If [anybody] makes a claim [on this property], I will seize their skirt on the day of judgement (*Wa agar da'va nūmāyad, roz-i qayāmat dāmangīr-i-ū shavam!*)'

Curses, and their more passive form, imprecatory prayers (asking God to punish someone), have been studied as legal devices in various ancient Middle Eastern contexts.²² These uses are very similar to instances from Mughal and pre-Mughal India, in which curses are included in stone inscriptions recording the dedication of property, to support resthouses for travellers, for example, and intended to protect against encroachment. Islamic jurisprudence provided for specific procedures for using curses in legal disputes.²³ But nothing we learn from that scholarship can fully prepare us for this evocative curse, recorded by a Hindu widow in a *zamīndār* family, as a guarantee for a legal transaction.

Credit and Obligation

Despite their diverse resource base, people like Purshottam Das and his family were sometimes desperately short of money. As we have seen, the rates of taxation were variable year-to-year and subject to negotiation on various bases, despite Malwa being a *zābtī* or regulation province in which clear rates of taxation, based on a systematic survey were supposed to be the norm. Such negotiation was reliant on a series of exchanges up and down a social and official ladder, all of them involving coercion. Although actors at the middle to lower end of the scale, such as Purshottam Das as his family, were not passive recipients of either coercion or magnanimity, occasionally the balance of negotiation tipped against them. We have seen in Chapter 3 how Purshottam Das was able to benefit from the discomfiture of his peers; when another *chaudhrī-cum-qānūngō* failed to deliver the taxes as promised, he had to abscond in order to escape the wrath of the *jāgīrdār*, and Purshottam Das was able to buy up that *qānūngō*. At other times, however, the Purshottam Das clan suffered from a lack of liquidity themselves. The surviving documents recording their debts and repayments offer us some insights into the sources of rural credit supply, the other key social actors that this family dealt with, and also the tangling of taxation and credit at the base of the structure of the Mughal empire.

Mohan Das, the state-approved vigilante who brought down a fearsome landlord-turned-highwayman, ran short of money at some point in his career, and was obliged to look for a loan. Either because they were all short of money, or because theirs was really a family enterprise which required collective acceptance of liability, Mohan Das, together with his brothers, Chandar Bhan

²² H. G. L. Peel, *The Vengeance of God* (Leiden: Brill, 1995), pp. 236–8; K. van der Toorn, *Sin and Sanction in Israel and Mesopotamia: a Comparative Study* (Assen/Maastricht, 1985), pp. 45 ff.

²³ Guy Bochor, *God in the Courtroom: the Transformation of Courtroom Oath and Perjury between Islamic and Franco-Egyptian Law* (Leiden: Brill, 2012), pp. 129–35.

and Dinkar Das, approached a man called Nayak Khandha, said to be of the 'banjāra' caste. We do not really know how much Mohan Das was compelled to borrow, but it was a hefty amount, and possibly one that built up through several loans on separate occasions. Despite establishing the family and its resource base, Mohan Das and his brothers did not manage to pay off his debt, whether because they remained cash-strapped, or because they did not feel adequately pressured to prioritise repayment. In any case, in 1660, a couple of years after Aurangzeb made himself emperor, Mohan Das's son, *chaudhrī* Purshottam Das, decided to repay the outstanding amounts, to the brother of Nayak Khandha, called Nayak Sundar, and to his sons, Haridas and Ramdas. The document called *fāriḡh-khaṭṭī* in which this transaction was recorded noted that all dues were cleared except a remaining bond (*tamassuk*) for twenty-five rupees.²⁴

Purshottam Das, who begun contracting for revenue with Mughal tax officials at least in the 1620s, was an elderly man by this time. He was also quite wealthy by rural standards. But even a substantial rural magnate such as this became periodically strapped for cash. Nayak (headman) Khandha, from whom Purshottam Das's father Mohan Das had taken a significant loan, belonged to that ubiquitous group of pastoralist-traders called *banjāras* whose mobile histories lay intertwined with the martial histories of groups associated with the great north-western desert, such as the Rajputs.²⁵ In the nineteenth century, the mobility and amphibiousness of groups such as the *banjāras* came to be legally associated with criminality by the colonial state keen on a pacified, immobilised agrarian population.²⁶

In the Mughal empire, however, such men performed the essential service of moving grain across long distances, provisioning urban centres as well as armies. For this reason, no doubt, we see a very clear *dastak* (passport), issued under the seal of a servant of the *jāgirdār* Nawazish Khan, to Nayak Singha and other *banjāras*, assuring them that they may purchase grain without the need to pay *pīshkash* or other taxes.²⁷ One can only imagine how such a document may

²⁴ NAI 2668/4 (1660).

²⁵ Habib, 'Mercant Communities', p. 373–4, quoting Zia Barani, *Tarīkh-i Firūz Shāhī* (ed.) Saiyid Ahmad Khan (Calcutta: Bibliotheca Indica, 1862), pp. 305–7; and a *dōhā* of the mystic poet, Kabir; Henry M. Elliot, *Memoirs on the History, Folklore and Distribution of the Races of the Northwestern Provinces of India* (ed.) J. Beames (2 vols., London: Hertford, 1869), Vol. I, p. 56; and R. V. Russell and Hira Lal, *Tribes and Castes of the Central Provinces of India* (Delhi reprint, 1975), II, 188.

²⁶ Radhika Singha, 'Providential' Circumstances: The Thuggee Campaign of the 1830s and Legal Innovation', *Modern Asian Studies*, 27: 1 (1993), 83–146; the suspicion of early nineteenth-century commentators, such as William Sleeman, persisted into the twentieth. Thus Russell and Lal, *Tribes and Castes of the Central Provinces*, Vol. IV, p. 561: 'it seems probable that many of the Thugs were originally Banjaras'.

²⁷ LNS MS 235 (n1) DAI, dated 1 Ramzan 1073 (1663).

have been preserved carefully by the leader of a caravan, who almost certainly would not have been able to read it, but knew to display it at checkpoints.

It is not clear why this *dastak* should have made its way into our family's archive, but it may have been because the family had long-standing financial entanglements with the *banjāras*. In any case, the *dastak* is additional evidence of the ability of these itinerant and usually illiterate traders to negotiate Persian-language legal documentation and its associated judicial processes.

When recovering their brother and father's money, for example, Nayak Sundar, Haridas and Ramdas would have appeared in front of the district *qāzī*, a certain Sheikh Ilyas, who affixed his seal to the document, and wrote: 'sealed with the confession/declaration (*'itrāf*) of Nayak Sundar'. Others would have turned up to complete the transaction, for the document was witnessed and signed by recognisable associates of the family – Parasram and Parmanand, *qānūngōs* of Dhar; Madhav Das and Girdhar Das, possibly also kinsmen; and also a certain Daud Khan and Shaikh Hussain. These last two may have been men whom the *qāzī* considered respectable and dependable as witnesses; Shaikh Hussain may even have been his own relative. And thus people of at least three social circles – upper caste Hindu landlord and tax officials, the illiterate itinerant merchants and Muslim *'ulamā* – all converged in the court of the *qāzī* to record a small economic episode, that of the return of a loaned amount, thus leaving a paper trail of the pattern of their mutual relationship. Such episodes and their institutional location (the *qāzī*'s office) serve to substantiate a key point of this book: the deep imbrication of Persianate and Islamic legal forms into the economic and social fabric of Mughal India, encompassing people of social groups who did not write or read in Persian (or indeed, in any language), but believed in its authenticating capacity.

Further loans, their repayment and the recording of such transactions, caught other social groups and actors within the net of historical records generated and preserved by Purshottam Das's family. Substantial and multigenerational loans were raised by Purshottam Das's sons, Narsingh Das and Gambhir Chand, this time from a certain Ganesh Sahu and his associate, Kale Afghan.²⁸ We may speculate that in moving on from itinerant traders, the *banjāras*, to the sources of their capital, higher status Hindu *bania*²⁹ and Afghan moneylenders, the family revealed its own rise in social status in two generations. Kale Afghan is rather more elusive; he may have been part of the small community of migratory traders visible all over India even in the nineteenth century and immortalised by the Bengali poet and novelist Rabindranath Thakur in *Kabuliwala*, or he may have been of the many soldiering families Malwa, dabbling in some

²⁸ NAI 2668/22 (1710)

²⁹ 'Sahu' being the Hindi term, recorded in use between the fifteenth to eighteenth centuries, to indicate big bankers, typically of *bania* caste. Habib, 'Merchant Communities', pp. 375, 379, 382, 390.

moneylending on the side. In case we needed confirmation that such inter-community commercial ventures worked admirably, Kale had indeed made a good investment. Like the *banjāras*, the *bania* moneylenders kept meticulous intergenerational accounts, but this time in writing, noting all giving and taking (*dād sitād*) in their account books (*bahī va afrād-i ḥisāb*). After Ganesh Sahu's death, his son Sangram took charge of the business, and having checked through all accounts and deducted all receipts, recovered the remaining money from Narsingh Das's brother Hamir Chand, and the latter's son, Nihal Chand, who were clearly deemed liable for the financial obligations of their relative. Sangram honestly handed over Kale Afghan's share to his son, Muhammad Jafar. The transaction was once again recorded in the court of the *qāzī* in the year 1711, by which time the era of the great Mughals was finished and Emperor Aurangzeb Alamgir's son Bahadur Shah was in the fourth year of his short reign. The *qāzī* in Dhar was a man called Muhammad Mustafa, who would notarise many important documents for the family during his tenure. On this occasion, details of the repayment were written down, and the document sealed by the *qāzī*, who superscribed a note: 'A valid declaration (*iqrār mu'atabar*) was made by Musamma Muhammaad Ja'far, the declarant (*muqīr*)'. Once again, the *qāzī*'s court and Persianate legal documentation netted diverse social groups, reinforcing and recording their mutual economic and social relationships in black and white.

There is much that of course remains unclear from these records. With the loans taken from the *banjāras* and the *bania*-Afghan partners, we cannot tell what the loaned amount was, neither can we tell whether the lenders took some kind of security,³⁰ or were confident enough about their ability to recover their loan through community knowledge and the *qāzī*'s authority. As we know, Hamir Chand had once been taken to court by his younger brother Narsingh Das over disputes related to inheritance.³¹ We do not also know whether, in discharging his (presumably dead) elder brother's loan, he, together with his son, was acting as Hindu coparceners, as required a by *dharmaśāstric* norms that would become law under the colonial government in the late eighteenth century,³² or whether they were merely acting out of sense of family honour. What we can see is that the people undertaking such transactions looked upon the local *qāzī*'s court and his notarisation services as useful, if not necessarily exclusive, tools for securing their interests.

In 1721, the same *qāzī*, Muhammad Mustafa, recorded a more complex transaction between Hamir Chand *chaudhrī* and another man, possibly a noble called Mir Muhib Allah, referred to in the document by the hyperbolic

³⁰ For example, through the mortgaging of certain properties, for which we have a instance studied by Habib, in 'Aspects of Agrarian Relations and Economy'.

³¹ NAI 2703/29 (1684), discussed in Chapter 2.

³² Wilson, *The Domination of Strangers*, pp. 75–103; Derrett, 'The Administration of Hindu Law'.

title ‘Refuge of happiness (*sa ‘ādat panāh*)’.³³ In this self-described *tamassuk*, Hamir Chand recorded taking 2,240 rupees in loan, and took the cash from the [account of the] villages listed beneath (*tankhwāh az mazkūr ba mawazī‘-yi zīl mī namūdām*). He promised to return the money within the year 1128 AH/1726 CE, after gathering the harvest. The villages in question were the *‘ināmī* village of Dhamanda, and the *dāmī* village of Ahu; Hamir Chand was therefore securing this loan against the tax-collecting rights that were important sources of the family’s income.

Tamassuks and Fārigh-Khaṭṭīs: Law and Taxation

As we have seen, when taking loans from various people, members of Purshottam Das’s family created *tamassuks*. While all documents in the collection relating to debt and repayment mention them, there are two surviving *tamassuks* in this collection. These show this was a documentary form based on the recording of an *iqrār* or ‘confession’. The document which recorded *chaudhrī* Hamir Chand taking a loan from a certain aristocrat called Mir Muhib Allah, for example, contained a short superscription above the seal of the *qāzī*, which said ‘*iqrār ‘aindī*’ (I have a confession; or There is a confession chez moi).

The standard translation of *iqrār* as ‘confession’ creates certain semantic difficulties with those not cognisant of the vocabulary of Islamic legal studies. *Iqrārs* may indeed be acknowledgements of guilt, but unlike this more restricted modern English connotation, *iqrār* relates to a broader range of meanings. *Iqrār* is a key category in the Islamic law of evidence: it is a unilateral declaration made by a person, which creates a binding legal obligation. Although subject to various conditions of validity, classical jurists considered *iqrārs* to be of the highest evidentiary value, and ‘binding in itself’ (*mūjib bi-nafsihi*). Thus, an *iqrār* did not have to be put down in writing, let alone authenticated through notarisation in order to be valid. In practice, however, jurists recommended a documentary form which recorded to the *iqrār* using the correct terminology which would also be attested to (not notarised) by a legal expert, acting in this case as a reliable witness.³⁴ An *iqrār* did not have to be about a loan or a property transaction, or about guilt; it was simply a legally valid declaration that could be made in any of these contexts, but an endless number of others, too. There are innumerable *iqrār* documents available in various collections from around the Islamic world.

³³ NAI, 2668/20 (1726?)

³⁴ Christian H. O. Müller, ‘Acknowledgement’, *Encyclopaedia of Islam*, 3rd edition (eds.), Kate Fleet, Gudrun Krämer, Denis Matringe, John Nawas and Everett Rowson. Brill Online, 2015. 11 July 2015, http://0-www.brillonline.nl.lib.exeter.ac.uk/entries/encyclopaedia-of-islam-3/acknowledgement-COM_0166

As it happens, Hamir Chand's *iqrār* was recorded in a very specific documentary form, called a *tamassuk*, which derived more directly from Indo-Persian revenue administration practices, and only indirectly from Islamic jurisprudence. As such, while the fact of Hamir Chand's acknowledgement, that he had taken a certain amount of money on loan, had taken possession of the cash and was committing himself to repay it within a given period of time, was recorded, together with the details of his name and genealogy as well as the name of the beneficiary, as a standard *iqrār* should, its vocabulary did not fully correspond with the forms recommended by the jurists, or with *iqrār* documents specifically acknowledging debts from other parts of the Islamicate world, especially from earlier periods. Thus Arabic-language *iqrār* documents, whether from the twelfth century and stored in the Cairo Genizah, or from the fourteenth century and stored in the Haram al-Sharif in Jerusalem, all began with the *Bismillah* (In the name of God . . .) and continued 'aqara/aqarat X bin/bint Y' (X son of/daughter of Y declared).³⁵ They invariably had witness clauses, such as, in the Cairo documents 'aind shahud hadha al-kitāb' (in the presence of witnesses to this writing) or 'shahīd 'ala al-X ba-dhalika' (witness on X with regard to this), in the Jerusalem documents.

Hamir Chand's *tamassuk* on the other hand, said much more directly, and in the first person:

Manke Hamir Chand chaudhrī-yi pargana Dhar Sarkar Mandu muzāf ba-sūba Malwa am, mublagh dō hazār rūpiye . . . az nazd-i sa ādat panāh Mir Muhib Allah ba-ṭariq-i qarz girāfte, dar qabz wa taṣarruf-i khūd āwardam.

I, who am Hamir Chand, chaudhrī of pargana Dhar Sarkar Mandu sūba Malwa, having taken 2,240 Rupees, of which the half would be 1120 Rupees, from the refuge of goodness Mir Muhib Allah, in the manner of loan, have brought it into my possession.

He then continued to explain how he would return the money within the year, and said at the end:

Īn chand kalme ba-ṭariq-i tamassuk nawishte dādam, ke sanī al-hal sanad bāshad.

I give these few words in writing in the manner of a *tamassuk*, so that it can be/act as a document in the future.

There were no witness clauses to the document. We do have a superscription 'aqara 'aindī' (I have an *iqrār*) written by the *qāzī* together with his seal above

³⁵ Khan, *Arabic Legal and Administrative Documents*, Documents 35–47, pp. 208–38; Huda Lutfi, 'A Study of Six Fourteenth Century Iqrārs from Al-Quds Relating to Muslim Women', *Journal of the Economic and Social History of the Orient*, 26: 3 (1983), pp. 246–94.

the body of the text.³⁶ Hamir Chand's name was written in the document in Hindi on the right-hand margin.³⁷

Thus the legal specialist, the *qāẓī*, was certainly part of the process of creating a legal deed recording a debt, affixing his seal to the document as also noting that it was an *iqrār*; the India form omitted the typical opening formula in which the *qāẓī* or another suitable notary recorded that the parties had made a declaration. Instead, these documents proceeded straight to a declaration in the first person. To spell this out, whereas the standard Islamic legal formula read, 'He declared that, I . . .', Indian documents ran, 'I declare that . . .' It is tempting to speculate whether this abbreviation of the formula, omitting the framing voice of the *qāẓī*, indicates a difference in procedure, personnel and location in terms of the drafting of legal deeds in India. Were such documents of debts written by people themselves, or more likely, by hired scribes, the archetypical *munshīs*, rather than legally trained *qāẓīs*? Was the document presented to the *qāẓī* post-preparation, thus somewhat defeating the original purpose of the *iqrār*, which was to record a direct declaration in the presence of respectable witnesses, ideally the *qāẓī* himself? Such a conclusion is difficult to arrive at based on these documents alone, and awaits the discovery of an adequate text describing the procedure for drafting such everyday legal deeds.

Whatever the social and institutional reasons for this deviation in form, we can explore the wider context of the word *tamassuk*, with which these documents of debt identified themselves. And thus we find ourselves back in the realm of the Mughal tax-collection juggernaut, for this was a term shared with revenue administration. A documentary form called *tamassuk-i zāminī* was used in the *Khālṣa* or treasury department to record security bonds given by 'workmen', and state loans.³⁸ It was probably used by Purshottam Das to record his bond, underwriting other *chaudhrī*'s commitments, which we have discussed in Chapter 3.

This was an interplay between taxation, administration and law, mediated through a Persianate culture of which chancellery procedure was an essential part. Thus it was particularly apt that Hamir Chand's loan was sourced from the taxes of the villages which he himself was charged to collect. Call it a government loan authorised by the *jāgīrdār*, call it cooking the books plain and simple – in *pargana* Dhar taxation and credit were inseparable parts of essential cash flows, and hence recorded in a shared documentary form.

This interplay between revenue and credit or taxation and transaction, and consequently between Islamic legal forms and Persianate chancellery

³⁶ This is similar to the inscription on the Haram 108 document, cited in Lutfi, 'A Study', pp. 267–8.

³⁷ NAI 2668/20.

³⁸ Jadunath Sarkar, *Mughal Administration* (Patna: Patna University, 1920), pp. 63–4.

procedure, was even stronger in the documentary form that complemented the *tamassuk* – the *fāriḡh-khaṭṭī*. *Fāriḡh* is an Arabic word, which means ‘empty;’ in Persian and Urdu, the meaning shifts slightly, to imply ‘free’ (of obligations, work, etc.). Thus, the term *fāriḡh-khaṭṭī*, which is a specifically Indian innovation, can be translated as the writing/record of freeing. The functions of such documents demonstrated that these were deeds of quittance, or written release from some specific obligation, on the fulfilment of the obligation, or its removal.³⁹ British officials writing in the nineteenth century noted that such quittance documents were issued by *zamīndārs* to peasants at the end of the revenue year, to record that all dues had been paid. They also noted who would scribe such a document – the village revenue record keeper or *patwārī*, who might charge a specific fee called *fāriḡh khatāna* for this service.⁴⁰

The *fāriḡh-khaṭṭīs* in the Purshottam Das family collection served a wider range of functions, also related to the emptying of claims. When in 1660, Purshottam Das, together with his uncles Chandar Bhan and Dinkar Das, repaid the *banjāra* traders for the loan his father had taken, he used a *fāriḡh-khaṭṭī* to record this transaction. When, in 1690, his son Hamir Chand did the same for his brothers, he too used a *fāriḡh-khaṭṭī*. *Fāriḡh-khaṭṭīs* were thus the necessary documentary complement to *tamassuks* – one inscribed obligations, and the other released them.

Such obligations were not limited to loans. In 1735, we find an elderly Hamir Chand, accompanied by his son, Nihal Chand, using a *fāriḡh-khaṭṭī* again, this time to record the fulfilment of his obligations towards his own servants.⁴¹ A man called Jagannath, self-described son-in-law of Anandi and Bhagirath Dhangar, declared that he had two documents in his possession, both inherited from his now-dead in-laws. One of these was a *tamassuk* of debt, and the other, a *patta-yi naukrī* (employment deed) which promised the fairly impressive sum of Rs. 8 per month. It is impossible to tell what work this *naukrī* really entailed; *dhangars* were listed by nineteenth-century British ethnographers as shepherds, many of whom had been amalgamated into the generic central and western Indian agricultural caste called *kunbī*.⁴² Given the sum of money involved, and term *naukrī* itself – Bhagirath may have been among the retainer that a *chaudhrī* such as Hamir Chand would be expected to recruit in considerable numbers. Given that this was now the early eighteenth century, these men would be even more in the nature of private militias than before; Mughal claims of military service having become ineffective and non-existent. What is rather

³⁹ Despite the similarity in name, and the occasional use by certain nineteenth-century British lexicographers, a *fāriḡh-khaṭṭī* is not a ‘quit-claim deed’, which, in English law, is a deed used to transfer title to property without checks on the status of the property, unlike ordinary conveyancing.

⁴⁰ Elliot, *Memoirs*, p. 147 ⁴¹ NAI 2668/27 (1735).

⁴² Russell and Lal, *Tribes and Castes of the Central Provinces of India*, Vol. II, p. 480.

more noticeable in Jagannath's claim and the documents he furnished, is the specific reference to his mother-in-law, Anandi. This woman appears to have been named in the *tamassuk* as one of the two creditors, and even been one of those named on the *paṭṭā* of *naukrī*. Whether we have here an eighteenth-century bandit queen, or a woman who kept the family finances and papers well under control, her son-in-law must have impressed the *zamīndārs* rather less, and that must have been why he needed to press a legal claim rather than continue in the position that his *paṭṭā* clearly allowed him to inherit.

In any case, either Hamir Chand did not need any more men, or Jagannath was an unsuitable candidate, or this family of employees, who had started advancing loans to the bosses, had become a bit too big for their boots and needed shaking off. Clearly Jagannath was too strong to be brushed aside, so a certain Hira Chand and Shaikh Ghulam Muhammad, the *kotwāl* of *qasba* Dhar, had to be appointed arbitrators to the dispute (*Hira Chand va Shaikh Ghulam Muhammad, kotwāl-i qasba Dhar, ba ṣālisī īn muqaddama pardākhte*). Jagannath was given hundred rupees to clear all dues. At this point, this slippery character revealed that he had actually lost the vital *paṭṭā* of *naukrī*, but he was made to declare that if it turned up later, or indeed, if any more *tamassuks* surfaced, these would be void and not worth considering (*bāṭil wa na-masmu*); and he said: 'after this, there does not remain with me any claim on Hamir Chand *chaudhrī* and Nihal Chand, nor any claim or quarrel'.

This time, the local *qāzī*⁴³ was not called to grace the proceedings. Someone summarised the whole matter in formulaic Persian in a brief three-line note on the bottom of the right-hand margin – '*Bana bar ān in chand kalme ba tariq-i fārigh-khaṭṭī lā-dā`va-yi nawishte dāde shud* (On this basis a *fārigh-khaṭṭī* [and] no-claims was written)'; Jagannath's name, and some other matters were written in three lines of obscure Nagri, next to which a small Persian seal, reading 'Jagannath' was affixed twice. The main difference with earlier *fārigh-khaṭṭīs* was the presence of two other brief marginal notes which appears to be in Moḍi, or the 'twisted' Marathi script. The largest and most official looking seal in the document, positioned where the most authoritative seal in a document would usually be, that is, above the main body of text, was square in shape. I have not been able to read the text in Nagri in this seal, but it begins with 'Śrī . . .'. It is impossible not to see these features as symptomatic of the fracturing of Mughal administration and the rapid encroachment of Maratha warlords. If so, this is rather rapid institutional change, and evidence of creation of an alternative dispute resolution and recording machinery, for the Persian marginal note in the document puts the date at 2 Muharram, RY 17. If the reference is to Muhammad Shah's reign, this would make the year 1734,⁴⁴ and

⁴³ We know that there was one in office, from the seal on the document NAI 2668/25 (1732).

⁴⁴ The conversion by the NAI cataloguer is wrong.

Malwa would be officially ceded to the Peshwa by the Mughal emperor only in 1738.⁴⁵ It was not regime change that caused the absence of the *qāzī* and the use of arbitrators; this had happened in disputes resolved and recorded in the family archive even in the mid-seventeenth-century. For example, in 1658, on the bidding of the *jāgirdār*, Purshottam Das and Paras Ram had arbitrated and resolved a boundary dispute between two villages; the document recording the resolution only had notes in the Nagri script on the margins, two plough symbols and a small, Persian seal of an unidentified officer. Now, however, there was a document that looked official and bore an official seal, only in a different script and bearing different pieties. This seal was very similar in appearance to those on later documents in the collection, written entirely in Nagri and referring to the raising of soldiers by Maratha ‘*mōkāsādārs*’.⁴⁶ The form of the document, however, remained the same; it was still a classic *iqrār* or binding declaration, narrating the facts, claims and resolution, self-nominated as *fārigh-khaṭṭī* in the Indo-Persian style.

The *fārigh-khaṭṭī* had an extended life, and lived well into the twentieth century. Within this collection, the most recent *fārigh-khaṭṭī* dates itself from 1195/1776.⁴⁷ In this document, a certain Anwar Beg and Syed Azam noted that they had made a claim on the mango trees in the garden of Sahib Rai, but after a resolution in court, they were relinquishing the claims. By this time, Dhar was well-established as a Maratha state under a branch of the Puwar dynasty. Regime change thus did not necessarily indicate a complete change in the forms of documents used to record disputes and resolutions. This should give us pause and encourage us to think more closely about the content of ‘law’ across regimes.

Transacting Lives

The *qāzī*’s court in the city of Dhar remained important for the pressing of various claims, well into the 1730s. These claims and their resolution continued to be recorded through the *fārigh-khaṭṭīs*, but the nature of some of these transactions makes it important to remind ourselves of the expanded meaning of ‘legal deed’ with which this chapter is working. We have seen how debt and obligation melted into taxation; in this section we shall discuss two documents which recorded exchanges over human lives, and their assessed money value.

The events recorded in these two documents, both of them *iqrārs*, and both sealed by Qāzī Muhammad Mustafa, appear to have taken place sometime

⁴⁵ Amar Farooqui, *Smuggling as Subversion: Colonialism, Indian Merchants and the Politics of Opium, 1790–1843* (Lanham: Lexington, 2005), pp. 34–70.

⁴⁶ P Das 1750 Hin NCD (Private+Author). ⁴⁷ P Das 1785 NCD.

between 1703 and 1709.⁴⁸ In what appears to be the earlier document, a man called Kalyan, the son of Nathu, turned up at the *qāzī*'s court, together with his son Dalu and his wife Ganga. They identified themselves as of the *qaum* of *khyāfī*, tailors. They were not exactly local, since they described themselves as inhabitants of the town of Kharkun, in *sarkār* Bijagarh.⁴⁹ They had come to complain about the disappearance of a Kalyan's son, Hira, during a major quest in which he had been accompanying Rupa *chaudhrī* of the town of Dhar, in the capacity of Rupa's servant. Hira had gone with Rupa to Shahjahanabad (Delhi) to lodge a petition (*mustaghāṣa*) against the oppression of the *jāgīrdār* of *pargana* Amjhera – Rao Jasrup.

Now this *Rāthoḍ* Rajput noble⁵⁰ was not an easy man to deal with. Although an elite soldier (*ahdī*)⁵¹ called Muhammad Ashiq was despatched from Delhi, and he accompanied Hira to Rao Jasrup's court, despite days of arguing, nothing was achieved. In fact, as soon as the soldier gave up and left, Jasrup imprisoned Hira. For three months, his family received no news of whether he was alive or dead. Desperate, they lodged a claim against Bardman, Dev Chand, Ratan Chand, Kalyan Chand, Nihal Chand and Aman Chand – sons of Rupa, who appears to have died by this time. In their claim, the claimants demanded that Hira be found, and to their credit, their employer's sons made a great deal of effort to find the missing man. The proud and oppressive Rao Jasrup did not even deign to respond to such queries, and the search had to be eventually called off.

Hira's old father, son and wife now took their appeal to Nawab Marhamat Khan, the *faujdār* of *sarkar* Mandu. The *faujdār* decided that it was pointless to pick a quarrel with the *Rāthoḍ jāgīrdār*, and instead summoned the sons of Rupa *chaudhrī*. Having made his investigations, he decided that the equivalent of eight month's salary for Hira, which amounted to 32 rupees, would be an adequate compensation for the loss suffered by his family. The poor people must have felt that this was the best outcome they could hope for under the circumstances, and so, the money being handed over to them, they made a declaration (*iqrār*) in writing, that they had no further claims, and that if, due to quarrelsomeness or naughtiness they made any demands related to Hira

⁴⁸ NAI 2668/23 has two seals, one clearly 1115 (1703) and the *qāzī*'s seal possibly 1116 (1704); the other document, NAI 2703/42 has three seals: the clearly backdated 1100 (1689), 1113 (1701) and the *qāzī*'s seal 1121 (1709).

⁴⁹ William Irvine, *Later Mughals* (ed.) Jadunath Sarkar, Reprint (New Delhi: Oriental Books Reprint Corporation, 1971), pp. 161–2.

⁵⁰ Mehrangarh Museum Trust, 'Rathore Dynasty Tree', <http://freepages.genealogy.rootsweb.ancestry.com/~princelystates/states/r/rathore.html>.

⁵¹ *Ahdīs* (literally: sole, alone) were elite gentlemen soldiers directly recruited by the imperial government, often forming the personal guard of the emperor. See Irvine, *The Army of the Indian Moghuls*, pp. 43–4; and I. H. Qureshi, 'The Army of the Great Mughals', *Pakistan Historical Society*, 6: 1 (1958), 34–54 at 37–8.

in future, such claims would be void and non-cognisable. Somebody called Muhammad Hussain, who had a proper Persian seal, witnessed the document, as did five others, writing in the Nagri script. One of these was *chaudhrī* Hamir Chand of *pargana* Dhar, and the other *qānūngō* Jaswant Rao, also of Dhar. The claimants did not write their names, and instead drew symbols – Hira's mother, Ganga, drew a shaky *swastika*, while his father and brother drew symbols that looked like large scissors – which corresponds rather neatly with their stated profession of barbers. All these symbols were superscribed with their names, in the Persian script. The *qāzī* superscribed a little note on the document, summarising the case – that Kalyan and others had recorded their relinquishing their claims (*lā-da'va*) on Rupa's heirs, and the fact of their having taken possession (*qabẓ al-waṣūl*) [of the compensatory sum]. Then he sealed it, and that was that.

These were troubled times in Malwa. From 1681, Mughal and Maratha armies had been criss-crossing the province, and from as early as the 1690s, Maratha war bands had begun raiding Malwa in search of tribute.⁵² Then Emperor Aurangzeb Alamgir died in 1707, leading to a vicious succession battle between his sons and grandsons. Before Prince Mua'zzam emerged victorious as Bahadur Shah, several armies followed the obligatory path through Malwa, on their way towards the imperial capital, testing the loyalties of *mansabdārs* posted in the region but also all measures of *zamīndārs* ensconced in the regions they traversed. An entrenched clan of middle-sized Rajput *zamīndārs*, big enough to have acquired a *jāgīr*, possibly on privileged non-transferable terms, made the *Rāthōḍ*s of Amjhera a difficult entity to handle for imperial Mughal officials – whether a commando despatched from Delhi, or the local *faujdār*, or the *qāzī*. Under such circumstances, one can see why the *faujdār* would propose a settlement in cash, and why indeed, the bereft family would accept it.⁵³

This family was not the only one to have been affected by Rao Jasrup's manner of dealing with the servants of troublesome but weaker rivals, for in 1709 (1121 A.H.), *Qāzī* Muhammad Mustafā recorded yet another *iqrār*, this time of five women.⁵⁴ These distressed women included Nanho, daughter of a learned man – a certain Shaikh Pesar Muhammad, but more importantly, the widow of a man called Daulat Khan. She came to the *qāzī* with her daughters – Nur Bibi, Taj Bibi,

⁵² Irvine, *Later Mughals*, p. 164; also see Chapter 7.

⁵³ Discussing cases of homicide decided in the Benares magistrate's and later Resident's court, during the earliest years of British supremacy in the late eighteenth century, Radhika Singha discusses several such instances of acceptance of 'blood-money', especially by impoverished kin, for whom the money made a more positive difference than the execution of the murderer would. Of course, in this case, there was no possibility of the murderer being punished in any way, let alone executed. Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (Delhi: Oxford University Press, 1998).

⁵⁴ NAI 2703/42 (1709 – by date on seal).

Chand Bibi and Hayati, and described her family as weavers (*qaum-i mū'min safīd bāf*)⁵⁵ and residents of the town of Dhar. It turned out that Bardman and the other sons of Rupa *chaudhrī*, had hired Daulat Khan to go to Jasrup in *pargana* Amjhera and get news about the missing Hira. Rao Jasrup predictably imprisoned the scout. After some time, his family learnt that he had died in Jasrup's prison. The family, as heirs (*wārisūn*) of Daulat Khan demanded of Bardman that he produce the man he had hired, and since (naturally) Bardman failed to do so, having no other option (*lā-chār*), the claimants declared their situation in the court of this very *qāzī*.

Hearing their complaint, Qāzī Muhammad Mustafa had felt it necessary to seek a legal opinion (*riwāyat*), and sent for one from the *mufī* of the city (*balda*) of Ujjain. Whatever the *riwāyat*, a set of arbitrators were appointed, through whose mediation it was decided that fifty-five rupees would be an adequate compensation. Bardman and his kinsmen paid the sum so decided, and the women of Daulat Khan's family declared that they had no further claims on the successors of Rupa. They did so in a document that self-described itself as a *lā-da'va* and *sulḥ-nāma*. Three men who could read Persian witnessed the document – of these Lutfullah Suhrawardi and Sabir Muhammad also added seals, Muhammad Baqir did not. Hamir Chand *chaudhrī* witnessed it in the Nagri script. The women plaintiffs drew what looks like leaf-symbols, their names were written in Persian above these marks. And of course, the *qāzī* Muhammad Mustafa added his summary as superscription, and sealed the document.

Social groups abound in this brief episode of violence and law. We have encountered a violent Rajput *Rāthoḍ* sub-clan, an imperial crack-soldier, a frustrated imperial *faujdar*, a *qāzī* who had performed the Haj, and poor people of tailor and weaver castes who hired themselves out on dangerous missions. What about their employers? Here we have some confusing angles – Rupa *chaudhrī* appears only in these two documents, but Bardman is also named as a *chaudhrī* who engaged to collect and pay the revenue of village Bhaghdi, in *pargana* Dhar.⁵⁶ It is quite likely therefore, that the employers of Hira and Daulat Khan were indeed descendants of Purshottam Das, or of another line of the family. However, the declarants in both documents said that Rupa *chaudhrī* was of the *qaum* of *ahl-i hirfa*.⁵⁷ This latter term normally referred to artisans; it could perhaps be an awkward reference to their *Kāyasth* status. We do not have any clear indication of the caste status of this family of *zamīndārs*; an associate or

⁵⁵ Muzaffar Alam, 'The Mughals, the Sufi Shaikhs and the formation of the Akbari Dispensation', in Richard Eaton, David Gilmartin, Munis Faruqi and Sunil Kumar (eds.), *Expanding Frontiers in South Asian and World History: Essays in Honour of John F. Richards* (Cambridge: Cambridge University Press, 2013), pp. 124–63 at 127.

⁵⁶ NAI 2703/43 (1726)

⁵⁷ John Shakespear, *A Dictionary of Hindustani and English* (1834), p. 179.

kinsman is referred to in one document as a Brahmin (*zunnardār*), and two later documents, purporting to be copies of *farmāns*, designate them *Kāyasth Nigam*. They were clearly powerful players in a local economy of violence and order.

Munshāts and Munshīs

As we have seen, the specific kind of legal deeds that survive from the activities of the Purshottam Das family are documents of *tamassuk* (obligation), *fāriḡh-khaṭṭī* (quittance/no-claims deed) and *hiba-nāma* (gift deed). All of these conform in structure and composition to documentary forms that were well known and widely used, not only in Mughal India, but until much later, well within the colonial period. The standardised format of these documents point to manuals of legal writing, or legal formularies, which scribes in Mughal India, quite like scribes in many other parts of the world,⁵⁸ would have used in their day-to-day work. In these tremendously unexciting manuals, however, lies an unexplored domain of cultural interaction and creativity, which we can explore to uncover the language in which ordinary people in Mughal India knew to express their entitlements and obligations. If *farmāns* and *parvānas* expressed the ideology of dynastic royal power, these scrappy documents of petty transactions bear evidence for what villagers in Malwa thought of their rights. They also tell us much about the language in which they expressed those entitlements and obligations, and conversely, about the multiple sources – linguistic and disciplinary – from which the languages of India developed specific functional forms, in this case, that of law.

As in all other contexts, legal deeds from Mughal India, recording the transfer of property rights, are extremely formulaic. They make repeated use of predictable phrases, which are specific to the kinds of documents in question. The formulae are also shared, although with uneven overlaps across the Islamic and Persianate world. Thus, any documentary form recording a certain amount of cash being transferred or promised, stated the amount being transacted first in full, and then halved, in order to securely clarify the amount being transacted, for the same reason that the value of a cheque in the present day is written both in words and in numbers. The actual transfer of property or cash was always recorded in such documents with a declaration of possession, such that, for example, a person borrowing money always states that amount in question ‘. . . *ba-ṭariq-i qarḡ dar qabḡ wa tasarruf-i khūd āwardam* (I brought the [money] into my possession, in the manner of a debt)’. Following a full description of the transaction, the document closed with a phrase that revealed its own type:

⁵⁸ For example, *The Formularies of Angers and Marculf: Two Merovingian Legal Handbooks* (translated) Alice Rio (Liverpool: Liverpool University Press, 2008).

‘... *īn chand qalme ba tariq-e* [whatever is the documentary form] *nawishte dādām ke śānī al-ḥāl sanad bāshad* (I give these few words in writing in the manner of... so that later on, they can act as a legal deed)’.⁵⁹

This was indeed the language of rights, and as we know, rights are always coded affairs. On the one hand, this was the language of lawyers, and as a specialist jargon, it bore all the marks of a specialist vocabulary, which included exclusiveness, opacity to outsiders or non-specialists, and specific functional value.⁶⁰ Lawyers, alongside merchants and criminals, are among social groups frequently associated with the production and utilisation of highly developed jargons, whose impenetrability always produced in outsiders the suspicion of meaninglessness and fraud. Jargons are also frequently associated with linguistic creativity (or eclecticism and bowdlerisation, depending on one’s taste), and specifically, with multiple linguistic sources. This was certainly the case with legal deeds produced in Mughal India, with their multiple sources of vocabulary and phraseology – which ranged from Islamic jurisprudence and Arabic terminology to Indo-Persianate governance to vernacular-medium corporate assertion. Legal deeds were a site par excellence for the proliferation of heteroglossia, in which the boundaries between vocabularies and grammars moved along a fluid spectrum of registers, rather than in neatly compartmentalised boxes.⁶¹

Indian books of *fiqh* contained very large sections of legal formularies or *shurūt*, the most outstanding example of this being the imperially sponsored *Fatāwā-yi ‘Alamgīrī*, commissioned by the Mughal emperor Aurangzeb Alamgir, which was completed by a team of Islamic jurists or *fuqāha*, led by a scholar from Burhanpur.⁶² The *FA* included a large Book of *Shurūt* (*Kitāb al-shurūt*),⁶³ which included models and instructions for writing, among other things, deeds of marriage, divorce, manumission, sale, pre-emption, lease, endowment, mortgage, and significantly for us, gifts and declarations. There was no specific document recommended for the recording of debts.

Shurūt were not, however, the only source of models for legal deeds written in Mughal India. While scholars working on other contexts have discovered works of jurisprudence specifically addressing local evidentiary and documentation needs, and have thus indeed revealed the bridge between Islamic jurisprudence

⁵⁹ For example, in NAI 2668/20, which we shall discuss.

⁶⁰ Peter Burke and Roy Porter, *Languages and Jargons: Contributions to a Social History of Language* (Cambridge: Polity Press, 1995).

⁶¹ For a very useful discussion of heteroglossia in connection with Urdu, see Javed Majeed, ‘The Jargon of Indostan’: An Exploration of Jargon in Urdu and East India Company English’, in *Ibid.*, pp. xxx.

⁶² Moez Khalfaoui, ‘Al-Fatawa Al-‘Alamgiriyya (al-Hindiyya)’, in *The Encyclopaedia of Islam*, 3rd Edition, Part 3 (Leiden: E.J. Brill), pp. 120–2.

⁶³ Sheikh Nizam and others, *Fatāwā-yi ‘Alamgiri*, translated to Urdu by Maulana Saiyid Amir Ali (Lahore: Maktaba Rahmaniya, n.d.), Vol. X, pp. 9–124; the ‘Book’ or section on *shurūt* runs pp. 125–298.

and Islamic legal documentation, in India, this mediation was more complex. Here, Islamic kingdoms and empires reigned over a persistent majority of non-Muslim people for eight hundred years and were particularly united in their use of (legally untrained) non-Muslim scribes, or *munshīs*, whose religious, social and educational make-up utterly distinguished them from the *ulama*, or Islamic jurists. These men were trained in Persian literary forms, including history and diplomatic correspondence, at the upper end of the scale, and account-keeping and revenue-management, often in a combination of (more) local vernaculars and esoteric accountants' scripts, at the lower end.⁶⁴ The stalwarts of this pan-imperial scribal class produced books of model prose, *munshāt*, a word derived from *inshā* or prose-writing. From the seventeenth century onwards, *munshāts* produced in Mughal India began to contain a section on legal forms, which was designated *qibālejāt-i sharī'a* or legal deeds.

My current understanding is that the legal sub-sections of *munshāts* happened to precede the first *shurūt* written in India, that is, the relevant section in the imperially sponsored *Fatāwā-yi 'Alamgiri*, by about eighty years. Despite its early origins, *munshāt* as an Indo-Persian literary genre, really came into its own under the Mughals. Manuscripts of only three Persian-language *munshāts* composed in India before the Mughal period have survived; the *Ijāz-i Khusrawī* of the famous poet Amir Khusraw Dehlwi, the *Inshā-yi Mahru*, and the *Riyāz al-Inshā* of Mahmud Gawan.⁶⁵ Of these, the first two were courtiers of the Khalji and Tughlaq sultans of Delhi in the fourteenth century, and Gawan (1411–81) was the Persian courtier of the Bahmani sultans of Bidar in north Karnataka.⁶⁶ None of these contain any legal formulae; they were essentially epistolaries, that is, formularies of letters, mainly diplomatic and royal but also those of *qāzīs* and *Shaikhs*, and in Mahru's case, a delightful sprinkling of admonitory letters to his son, who was clearly not keeping up with his peers in his commitment to his studies. It was only with the Mughals that learning to write legal deeds became an essential qualification for *munshīs*.

Writing in Law

It is now time to take the magnifying glass even closer to our documents, and take a look, not only at their use of multiple languages and scripts, but also the

⁶⁴ Alam and Subrahmanyam, 'The Making of a Munshi', 61–72; Rosalind O'Hanlon and David Washbrook (eds.), Special issue on Munshis, Pandits and Record-Keepers: Scribal Communities and Historical Change in India, *IESHR*, 47: 4 (2010): 441–615. For lower-level scribes, who wrote, for example, in Marathi in the Modi script, or even lower, in Tamil, and not on expensive paper, but on palm leaf, see Raman, *Document Raj*.

⁶⁵ I. A. Zilli, 'Development of inshā literature to the end of Akbar's reign', in Muzaffar Alam; Francoise 'Nalini' Delvoye; Marc Gaborieau (eds.), *The Making of Indo-Persian Culture: Indian and French Studies* (New Delhi: Manohar, 2000), pp. 309–49.

⁶⁶ Eaton, *A Social History of the Deccan*.

patterns of that co-deployment. In general, our documents are outstanding examples of that phenomenon which was the bane of language activists of all hues in mid-nineteenth century India. This was the ‘impure’ written language(s) of offices and courts, which failed to live up to the literary standards of re-discovered classical literatures, sported notoriously ‘mixed’ vocabularies abounding in administrative Persian, and were written in a variety of scripts and hands that came to be increasingly condemned as illegible and susceptible to various forms of corruption. It is now time to look beyond that historical indictment, not only to historicise and analyse that modern politics of language, and to understand the modes of early modern language use on its own terms. Why did people write legal documents in more than one language and script? Further on to the mechanisms and sociology of multi-lingualism: did the same hand write both sections; and in what order were they written?

In South Asian studies, these questions have primarily been essayed from the point of view of literary studies. In other contexts, historians have attempted to explain them on the basis of function – related to the requirements of distinct jurisdictions, and to the movement of people between them. Such propositions have been strongly Mediterranean-focussed, and predominantly with reference to the experiences of Jewish individuals, pulled between the claims of Islamic state courts and unofficial but demanding tribunals of their own communities.⁶⁷ On the other hand, studies of a recently discovered documentary cache from twelfth-century Bamiyan, in present-day Afghanistan, point to more complex linguistic features in documents evidencing Jewish communities’ formal and informal interactions with Islamic law. The Bamiyan documents, for example, appear to be a family archive (quite like our own), and consist of legal documents such as *iqrārs*, but also personal letters, and are all written in Judaeo-Persian, which means Persian written in the Hebrew script. What makes this inter-graphia (to coin a term) even more interesting is that the writers of such letters and documents also combined these scripts, often within the same sentence and the same word! The very plausible rationale for such digraphia that scholars working on these documents have proposed is entirely pragmatic – lack of space at the end of a line and the suitability of the letter from one script rather than another, for example.⁶⁸

It is with these exciting possibilities, which suggest poly-lingual practice, with variable but necessarily combined dexterity in a number of scripts and languages, that I wish to take a closer look at patterns of language and script use, within the archive of the family of Hindu landlords whose story we are

⁶⁷ Jessica Marglin, *Across the Lines: Jews and Muslims in Modern Morocco* (Yale University Press, 2016); Marglin echoes Khan’s introductory comments in *Arabic Legal and Administrative Documents*.

⁶⁸ Haim, ‘An Early Judeo-Persian Letter’, Vol. 26, 103–19; example of such digraphia in line 6 and 13, verso of the document presented, p. 105.

pursuing in this book. In this connection, I also propose that, in order to understand the deployment of languages and scripts, we need to understand the different kinds of documents present in the collection, and map linguistic usage onto a context-sensitive formal-cum-functional typology. By formal, I mean the self-nominated form of document: Mughal Persian documents typically named themselves with a formulaic sentence, usually in the first or final lines of the documents. By functional, I mean the substantive directive, petitionary or transactional purpose of the document. In this case, since we already know about the protagonists very well, we do not just have to speculate on the mutual relationships of parties and their interests and aims; we can work from fairly full information about them, and from that starting point we can begin to tell what kinds of language-script use featured in which kinds of documents. This is a provisional typology proposed in order to systematically organise the documents in this family's collection.

The number of documents that demonstrate any form of bilingualism (two languages) and/or digraphia (two scripts) within the collection is limited; 37 out of 195 documents bear such features, that is, around 18 per cent. Moreover, the linguistic and graphic diversity is clearly distributed towards the right-hand side of this typology, with contracts and transactional documents and testimonial records showing a combination of Rajasthani-Hindi and archaic Nagri script, and in some of the later material, Marathi and Modi script.

Table 4.1 *Typology of documents in the Purshottam Das archive*

Orders	Petitions	Tax contracts	Interpersonal transactions	Documents related to adjudication
<i>Farmān</i> (only copies)	<i>Ilīmās</i>	<i>Qaul qarār-i pattā-yi ijāra</i>	<i>Hiba-nāma</i> (gift deed)	<i>Sanad</i> recording <i>qāzī's</i> decision
<i>Nishān</i>	<i>Arzdāsh</i> t	<i>Muchalka</i>	<i>Tamassuk</i> (deed acknowledging a debt or other obligation)	<i>Mahẓar-nāma</i>
<i>Parvāna</i>		<i>Qabuliyat</i>	<i>Fārigh-khaṭṭī</i> (deed of emptying of obligations)	
<i>Dastak</i>			<i>Iqrār</i> or <i>iqrār-nāma</i> (generic – binding declaration)	
<i>Khaṭ/Kharīṭa</i>			<i>Nikāḥ-nāma</i> (deed of marriage – for Muslims; naturally absent in our collection)	
			<i>Rāzī-nāma</i> (deed of agreement – of any kind)	

However, such bilingualism and digraphia was of various types. The clearest full-blown type is the co-situation of two languages in the same document, scribed in two distinct scripts, and located in vertical sections – the Persian/Perso-Arabic above, the Hindi/Nagri beneath. This is almost unfailingly the case with documents that call themselves *qaul qarār*, a kind of tax contract. Although ‘tax contract’ is an odd term to use today, it made full sense in a context where revenues were a matter of negotiation, usually between individual village headmen and a *jāgīrdār*.

When we examine the first *qaul* in our collection, dated 1626, we see that it is both bilingual and bi-scribal. Although the content of two parts of the text is nearly identical – with very large proportion of Persian words in the lower Hindi section, including the use of the same calendar, there are slight differences. Short phrases, including ‘*sahī hamārā qaul bolē hai*’ (a true declaration has been made) which does give us autonomous Hindi verb-form, together with pronouns and particles, provide the essential template for distinguishing between languages. Also, there is at least one distinct formulaic phrase at the end, ‘*bidi*’, which signifies an order, which one also sees in the *parvānas* issued from the Kacchwaha chancellery with relation to the temples at Mathura.⁶⁹

When talking of grants scribed by Rajput chancelleries, however, it is worth considering the documents whereby grants were made to the Mathura temple by *mansabdārs-jāgīrdārs* of the Kacchwaha house over two centuries. Strikingly, and unlike most other *parvānas*, these documents were bilingual and bi-scribal – the Persian on the left and the Rajasthani on the right. The fact that the two languages are here vertically arranged (rather than one beneath the other) makes a striking visual point about the equivalence of languages. Also, the Rajasthani portion, written in Nagri script is much more linguistically autonomous than the Hindi-Nagri portion in the Dhar *qaul qarār* we just discussed. Thus we can begin to speculate that in some of the noble households, distinct chancellery styles began to develop, which, in certain classes of documents, especially those expressing royalty (so, *parvānas*), made space for the growth of linguistically distinct documentation styles.

Originals, Summaries, and Copies

The second way in which multilinguality worked is through ‘translated copies’. This phrase may appear to be an oxymoron, but this is because of a series of presumptions in our mind with regards to originality, which we implicitly contrast with reproduction on the one hand and transformation of any kind on the other. Situated as we are now in a world of mass reproduction through print and the infinite reproductive as well as transformative capacity of digital media,

⁶⁹ Horstmann, *In Favour of Govinddevji*.

we fetishise the original artefact. We imagine a unique hand producing the original, all subsequent copies and versions being reductions of the essence of that original. There may also be an implicit chronology in this vision – which valorises and grades all such inevitably deviant versions by antiquity – the older the copy or version, the closer it is assumed to be to the essence of the original. We even transfer some of this fetish value to early short-run print editions of culturally significant books, such as Shakespeare's *Folio*, for example.

In the manuscript world, however, written artefacts were ranked differently, with reference to factors other than faithfulness to the original or antiquity. Based on scholarship related to literary production in the Persianate world, in particular, it appears that texts were valued for the quality their re-worked contents – the debates about the relative value of Nizami's *khamasa* versus Amir Khusrau's appear to be quintessentially modern, for example, and there is no indication that the creative changes introduced by Khusrau were seen by his contemporary audiences as edgy or violative in the way that Shakespeare purists sometimes do.

Translators in that cosmopolitan world should be seen as retellers, and of a piece with Khusrau. Then, as now, their attempt was to make sense to their intended audience, but they appear to have been less restrained by concerns about fidelity to the words and concepts of their source text, and more concerned about the effect they wished to produce. In that process, it may be perceived as perfectly valid to summarise the less interesting portions of a text, and expand upon the parts more relevant to the aims of the author/re-teller. It may also be seen as valid to replace key terms with others, and situate the latter within a conceptual genealogy extrinsic to the text; for instance, when Sanskrit religious texts are translated into Persian by Sufis in order to provide yet another model of conceptualising and accessing the divine. A striking example of this is the Persian *Gīlā* of Abd al-Rahman Chisti, a Sufi who died in 1683 CE.⁷⁰

In addition, translation is a rather different exercise when the audience can be assumed to know some elements of all the languages involved. Where present-day authors, especially those dealing with diasporas, sprinkle their texts with untranslated words from a source culture/language in order to evoke alterity and exoticism or authenticity (with tangled politics associated with each approach), Persian writers in India retained words from Indic languages, usually transcribing them in the Perso-Arabic script, for more functional

⁷⁰ Roderic Vassie, 'Persian Interpretations of the Bhagavadgīta in the Mughal Period: With special reference to the Sufi version of Abd al-Rahman Chisti'. Unpublished PhD Thesis, SOAS, London, 1988; Ilyse R. Morgenstein Fuerst, 'A Muslim Bhagavad Gita: 'Abd al-Rahman Chisti's interpretative translation and its implications', *Journal of South Asian Religious History*, 1 (2015), pp. 1–29.

reasons. Accuracy with names (of plants, animals, their products, physical conditions, persons and places) was a concern that the writers of medical and legal texts shared. They may also have shared concern about the accurate identification of doctrines and procedures through the precise use of technical terms.

In Chapter 2, we have also seen a grant made by a very low-ranking imperial noble, a Rajput called Jujhar Singh, to the same family of *zamīndārs*. While visually, this might appear monolingual, in fact, it attests to its origin in multilingual practice, because the first line says: *parvāna ba-mazmūn Hindavī ba-muhr-i Rao Jūjhar Singh* (*parvāna* of Hindi content under the seal of Rao Jujhar Singh).⁷¹ It appears that in this case, translation, particularly to Persian, was not seen as a diminution of authenticity of an authoritative document; it may have even captured its essence better than the Hindi original.

The Marginal Languages

The third mode of marginality is through marginal notes, symbols and signatures. Non-Persian attestations are most frequent in transactional documents (of sale, taking and repaying of debts and so on), and also testimonial documents related to disputes. Here, parties as well as other witnesses had their names written on the right-hand and bottom margins of the document, following the formulaic declaration ‘*gawāh shud*’ or ‘*sākshī*’, both meaning witness(ed) in Persian and Hindi, respectively. It is striking, in this case, that such attestations appeared to reveal a preference for the script one’s name is written in; Hindus, including members of our family, seemed to prefer Nagri.

Others, who could not read or write at all, had their consent indicated with graphic symbols, following another set-phrase ‘*alāmat-i dastkhaṭ*’ (sign of the hand). In the choice of symbols, we see a wonderful array of significant images, comprehensibly aligned with castes/professions – Rajputs (including members of our family, who thought of themselves as military entities) preferred the *kaṭār* (the stab-dagger, later associated with Rajput identity), whereas a family of barbers chose scissors.

Together, this mode of multilingualism should encourage us to think beyond the clearly inadequate equation of language and religious identity, but also the notion of a centrally directed Mughal language policy, whereby Hindi is discarded once and for all by imperial decision, and inevitably in Akbar’s court, leaving Persian to trickle down to the corners of the empire. Just as English never managed to erase the astonishing diversity of Indian languages and scripts, nor resist the grammatical, lexical and phonetic incursions that made it an Indian language, Persian and the Perso-Arabic script too, were

⁷¹ See Chapter 2.

situated in a complex and creative interplay with other languages and scripts. Legal documents offer us a large corpus of material to study that interplay systematically; this chapter has made some effort to begin that work.

In order to go further, however, we also need to discard the imperial court-centric fantasy of the Mughal empire, and understand the significance of not just princely, but aristocratic households. We also need to re-examine the 'idiomatic' translations of technical terms using early modern English vocabulary, which have obscured rather than illuminated Mughal practice. 'Chancellery' is one of those unfortunate words; the sole book on Mughal documentation practices, while based on the survey of a large number of manuals and documents, is plagued by the notion of a stationary central imperial chancellery, which ignores the persistently peripatetic nature of the Mughal court. Moreover, the vast majority of orders would have been issued not by the emperor, but by the *jāgīrdār-mansabdārs*, implying both multiple sites of document production, but also, potentially, variable documentation and archiving practices. In fact, the linguistic differences between *parvānas* in different private collections even suggest *gharānas* of documentation,⁷² with language use tied to the household tradition of great (and small) nobles.

Conclusion

This chapter, which focussed on the documents recording transactions between members of the family and their kin, associates and rivals, was intended to take the story into the intimate and everyday crevices in which law flowed in Mughal India. Here too, as with orders and tax records, 'law' and 'legal documents' emerged from a combination of authoritative sources in which the royal and the legal were inseparable. Counter-intuitively, or perhaps not, it is at this intimate and everyday level that the Islamic identity of that law becomes most obvious, with several documents revealing the percolation of pan-Islamic legal forms into the Indian countryside.

This is also the level at which we see the most complex interplay of languages and scripts. It is as if in the permissive court of the *qāzī* and the voluntary transactions between individuals, the overwhelming grandeur of classical Persian and the Perso-Arabic script eased up, permitting, on the one hand, the use of Hindi, Marathi and Indic scripts, but also Arabic. All these languages and scripts intertwined, produced a visually and phonetically linguistic sphere within which law was articulated in the lives of this family of Hindu *zamīndārs* from Mughal Malwa.

⁷² I am grateful to Syed Akbar Hyder for suggesting this to me.