1 Introduction

This work is concerned with exploring the state in activity, and not (as is so often the case) as a set of institutions and structural attributes. Dispensing with the top-down perspectives that focus on the kings, high nobles and the bureaucracy, the harem and the imperial court, the effort here is to view state formation from below. A preliminary effort in this direction was made earlier in my work on western India during the sixteenth–eighteenth centuries where I had argued that the state–society relations were integral to Mughal state-formation, and the political process was marked by an interpenetration of social forces with the state.[1] I was of course not the only one to have done so, and before and since my work, there have been several interesting studies that have examined the state from the bottom-up, and have provided fresh insights on political processes in the early modern period.[2] Most of these studies, mine included, have looked at the malleability in the rule structure, and have, from their respective contexts, highlighted the extent to which the local power-holders, corporate groups, and common people participated,

[1] Farhat Hasan, *State and Locality in Mughal India: Power Relations in Western India, c. 1572–1730* (Cambridge: Cambridge University Press, 2004).

[2] See, in particular, Munis Faruqui, *The Princes of the Mughal Empire, 1504–1719* (Cambridge: Cambridge University Press, 2012); Sanjay Subrahmanyam, *Penumbral Visions: Making Polities in Early Modern South India* (Ann Arbor: University of Michigan Press, 2001); Nandita Prasad Sahai, *Politics of Patronage and Protest: The State, Society, and Artisans in Early Modern Rajasthan* (New Delhi: Oxford University Press, 2006); Pratyay Nath, *Climate of Conquest: War, Environment, and Empire in Mughal North India* (New Delhi: Oxford University Press, 2019); Chetan Singh, *Region and Empire: Panjab in the Seventeenth Century* (New Delhi: Oxford University Press, 1992); and Abhishek Kaicker, *The King and the People: Sovereignty and Popular Politics in Mughal Delhi* (Oxford: Oxford University Press, 2020). For the discussion on the historiography of the Mughal state, see Muzaffar Alam and Sanjay Subrahmanyam (eds.), *Writing the Mughal World: Studies in Culture and Politics* (New York: Columbia University Press, 2011); and Muzaffar Alam and Sanjay Subrahmanyam (eds.), *The Mughal State, 1526–1750* (New Delhi: Oxford University Press, 2005).

and modified, even restructured, the rule structure. In this work, I focus not so much on questions of how the society impinged on the state, but on how the state's relations with local power relations shaped the sociocultural processes in early modern South Asia. I examine the social constituents of the state, and see how state–society relations impinged on, and reproduced the legal order, local corporate bodies, forms of social communication and property transactions. In other words, the work explores the socially embedded attributes of the state, and the extent to which they shaped legal pluralism, literacy and oral traditions, identity politics, publicness and the public sphere, and property relations. In line with the state-in-society approach suggested by a growing number of political theorists and anthropologists,[3] the primary aim here is to see how social life and cultural practices were constituted and reshaped by the state's participation in social spaces and, more importantly, its entangled relations with the elites and common people in micro-spaces. I have elsewhere described the rule structure as constituting the 'state–society compact of authority',[4] and part of my aim is to see how the networks of these relations served to reproduce the sociocultural spaces in the Mughal period. This is clearly a study of social and cultural transformations, but one that does not quite ignore the agency of the state either. Though it challenges and disrupts the entrenched state determinism in the dominant historiography, yet it is not entirely convinced about the apparent necessity of excluding the state altogether in understanding processes of historical change in our period of study.

Looking at the political process in early modern South Asia as shaped by state formation from below, I find the concept of 'empowering interactions', often invoked by political theorists and historians of the state, particularly apt and useful.[5] Andre Holenstein explains 'empowering interactions' as referring to 'a specific communicative situation emerging from diverse, but nevertheless reciprocal interests and demands from both the state's representatives and members of local societies'. He further adds, '"Empowering Interactions" suggests that both the representatives of particular interests and the state benefited from

[3] Joel S. Migdal, *State in Society: Studying How States and Societies Transform and Constitute One Another* (Cambridge: Cambridge University Press, 2001); Aradhana Sharma and Akhil Gupta (eds.), *The Anthropology of the State: A Reader* (Oxford: Blackwell, 2006)

[4] Hasan, *State and Locality in Mughal India.*

[5] Wim Blockmans, Daniel Schlappi and Andre Holenstein (eds.), *Empowering Interactions: Political Cultures and the Emergence of the State in Europe, 1300–1900* (London: Routledge, 2009).

such interactions. In a specific sense, both parties became more powerful: the bearers of particular interests received authoritative support, while the state broadened its social acceptance and legitimacy.'[6] In pitching for the model of 'mutually empowering interactions' as the basis of state–society relations, the study highlights not simply the dependence of the state on local circuits of power and resource dispensation, but also its socially embedded character. These relations – formal and intimate, and familial and impersonal – embroiled the state in ever-deepening local arenas, and served to create spaces for state participation in social and cultural spaces, and equally for social participation in state spaces. Acknowledging the presence of the state in these spaces should hopefully help us draw linkages and convergences across social, cultural, and political developments in the early modern period.

As I look at the state in spaces of social communication, I cannot help but notice the impressive expansion in the use of paper, ink, and pen in state activity. It is indeed true that the Mughal empire was a vast paper regime, and the strength and competence of the state were amply demonstrated by the extensive use of written documents in almost all state activities, from the ones undertaken at the imperial court to the ones carried out by petty officials in the smallest unit of administrative organization, the *pargana*. The elaborate and more purposeful utilization of the media technologies of literacy – paper, ink, and pen – was certainly among the important advances of the period, but it would be erroneous to see them as unilateral instruments of the state, perfecting its reach and control. Even as there was considerable expansion in practical literacy in state activities, economic transactions, and cultural practices, the Mughal empire was perhaps not a 'calligraphic state'.[7] The relationship of writing to authority is a complex issue,[8] but even as documents were important and were becoming ever-more

[6] Ibid., pp. 25–26.

[7] This is how Brinkley Messick describes the state in Yemen during the nineteenth–twentieth centuries (*The Calligraphic State: Textual Domination and History in a Muslim Society, Comparative Studies on Muslim Societies* [Berkeley: University of California Press, 1993]). Also see Brinkley Messick, *Shari'a Scripts: A Historical Anthology* (New York: Columbia University Press, 2018).

[8] For a discussion on the issue, see Jack Goody, *The Logic of Writing and the Organization of Society* (Cambridge: Cambridge University Press, 1986); Jack Goody, *The Interface between the Written and the Oral* (Cambridge: Cambridge University Press, 1993, repr.); Jack Goody (ed.), *Literacy in Traditional Societies* (Cambridge: Cambridge University Press, 1975).

widespread, it would still seem that the culture of 'textual domination' that Brinkley Messick noticed in the Muslim world was largely absent in our period.[9] My study seeks to draw attention to the fact that the textual practices were actually intricately braided with performative traditions and cultures of orality. How a document was read and interpreted was always a negotiated process in which ritual display, public performances, and oral recitations and ceremonies were an integral part of the deal. A document was indeed a shifting signifier, and an elusive presence, and bore imprints of contested meanings and potential accommodations. Exploring the state in micro-spaces – *qasba*s, towns, and cities – I argue here that words on paper were not autonomous bearer of meanings, but were read in contexts driven by the local relations of power. The written text – an imperial order, property document, sale deed, and court judgement – opened up a contested space in which social actors registered their identities, defended their interests, and clashed over meanings.

It is certainly true that paper exercised, for an ordinary subject, a self-referential mystique when he saw that the lines drawn over it, in ink, determined his revenue obligations. He could barely read any of these papers, but they demonstrated to him both his own helplessness and the might of the state. His feeling of powerlessness could have been reinforced by the realization that if he needed to converse with the state – protest against the quantum of his fiscal obligation, or petition against the excesses of the state officials – he could do so only through the written instruments, pushing him into a state of helpless dependence on the clerical communities, and their skills with pen. It was no different for women, for they too had to capitulate to the authority of pen and paper in registering their marriages, rent agreements, and inheritable rights. Even so, just as literacy threatened to overwhelm the subordinate subjects, it also provided spaces for their resistance. A document issued by the state office, or one that was ratified by the officials, might bear the imprint of state intentionality, but it was still amenable to multiple readings, and several interested interpretations. These texts were, to borrow a term from Roland Barthes, 'readerly texts', that is, they were suffused with a plurality of meanings, and could be multilaterally read by the audience in ways that related to their experiences and world-views, as also their interests and aspirations. The written text was a bearer of shifting meanings, and how it would be read, and what it would mean depended on the surrounding oral traditions and the performance that accompanied its reception and circulation. The written–visual and the oral–aural were co-constitutive, and it was within a multiple media

[9] Messick, *The Calligraphic State.*

of communication that the semiotic field was located, and the state conversed with its subjects.

These issues serve as the backdrop to my reading of the property documents. In engaging with them, I seek to recover to the extent possible traces of performativity, oral traditions, and multiple modes and means of meaning apprehension within and inscribed over the surface of these documents. I have examined not just the content, but also the form of these documents. By closely examining inchoate signs, undecipherable symbols, illegible signatures, and bodily presences (*huliya*), my work disrupts the text–object dichotomy. I see these documents as both texts and objects, but even as objects they are situated within complex signifying practices, and convey meanings that complicate our understanding of property relations in our period. One of the things that this study sets itself against is the commodity-centred frames of reference, and argues instead that property was not simply an index of wealth, but a medium through which social relations were affirmed, reproduced, and contested. Owing to the identification of property with the honour of families and caste groups, transactions in property were socially regulated activities that bore the imprint of local power relations. Furthermore, property documents were imbued with a plethora of meanings, and this was because the scribal-literate tradition in Mughal India co-existed with an oral-performative culture. Writing was used by social actors in a wide variety of ways, and for different sets of objectives, sometimes to reinforce the social order, on other occasions to disrupt it.

This raises pertinent questions concerning Mughal chancery practices, and one thing that we should bear in mind is that unlike the western archive, the creation and preservation of records were not simple power-laden activities, nor were they state-centred efforts to discipline people and impose domination. The text-object was mobile and malleable and imbibed traces of social conflicts and accommodations, and the state's relations with the social forces. The circulation of the text – and in the case of property documents at least, even their production – did not occur exclusively within state spaces, but involved an active engagement with the local elites, corporate groups, and ordinary people. Furthermore, the textual practices occurred within a framework in which the written documents and performative activities dynamically interacted with each other in shaping meaning and interpretation. Historians working on the Islamic record–keeping practices have found that the insights from the 'archival turn' have a limited purchase in understanding Islamic chancery practices, and some among them have even suggested that the concept of the 'archive' does not quite apply to their record-keeping activities, preferring instead to call them the 'Islamic cultures of

documentation'.[10] My work largely supports this argument, but also seeks to complicate our understanding of Mughal chancery practices by raising issues concerning the ambiguity in meanings, shifting significations, forms of documents, and the signs, symbols, and bodies inscribed on their surfaces.

In the 'Islamicate world', historians working on the textual practices have found that the documents were not tied to stable signifying systems, and the apprehension of meanings, in what Derrida describes as 'word play', was always a contingent and tentative occurrence. In a fascinating legal history of economic life in the western Indian Ocean, Fahad Ahmad Bashara has shown how the legal documents dealing with economic activities – in particular the deeds of debt (or *waraqā*s) – moved across communities, interest groups, and sovereignties, and in the process of their circulation developed new contexts and frameworks of meaning.[11] In the Mughal empire, I noticed in my study of Mughal documents on the English East India Company that Mughal imperial orders (or *farmān*s) dealing with revenue obligations of the English Company merchants were read and reproduced by both the Company servants and the local officials in ways that provided the English merchants tax benefits that were certainly not intended by the imperial court. For all the authority that the *farmān*s carried in Mughal India, they were nonetheless susceptible to multi-layered meanings.[12]

The documents that I examine here – property documents, court orders, petitions, public notices, sale and mortgage deeds, and news reports – have an air of finality about them, and a pretense of concreteness, but in reality, once we

[10] See the essays in the special issue on 'Islamic Cultures of Documentation', ed. James Pickett and Paolo Sartori, *Journal of the Economic and Social History of the Orient* (*JESHO*) 62, nos. 5–6 (November 2019, in particular: James Pickett and Paolo Sartori, 'From the Archetypical Archive to Cultures of Documentation', pp. 773–98; Zahir Bhalloo and Omid Rezat, 'Inscribing Authority: Scribal and Archival Practices of a Safavid Decree', pp. 842–55; and Bhavani Raman, 'Islamic Cultures of Documentation: An Afterword', pp. 1079–91.

[11] Fahad Ahmad Bishara, *A Sea of Debt: Law and Economic Life in the Western Indian Ocean, 1780–1950* (Cambridge: Cambridge University Press, 2017). Also see Johan Mathew, *Margins of the Market: Trafficking and Capitalism across the Arabian Sea* (Oakland: University of California Press, 2016).

[12] Farhat Hasan, 'Conflict and Cooperation in Anglo-Mughal Trade Relations during the Reign of Aurangzeb', *JESHO* 24, no. 4 (October 1991), pp. 351–60. The paper was based on a collection of Persian documents concerning the English East India Company found in the British Library (B. M. Addl. 24039). A similar collection of Persian documents concerning the Dutch East India Company is also available in the British Library (B. M. Addl. 23095).

get attentive to the details, and the contestations that are inscribed on surfaces, we can discern the semantic shifts that inform them, and the world of multiple meanings that inhere in these texts-objects. Situating these documents within the politics of circulation, recollection, and recall reveals the extent to which the social actors constantly shifted meanings – or engaged in 'word-play' – to articulate their identities, and defend their symbolic and material interests. The important point is that beyond the details of a transaction, a property document, or any other document for that matter, provides interesting details of social contestations, community identities, and inter-community conflicts as well. Property transactions should, I argue in the next chapter, be seen as sociocultural activities that reaffirmed and undermined social identifications and hierarchies.

The study of property documents is followed here with that of the legal order. This is a field that needs much more work, and if we compare the Mughal historiography on law with that of other contemporaneous Islamic empires, we can see the extent of our deficiency in the field.[13] One of the insights that the interventions in the legal system in the early modern Islamic empires offer is that Islamic law was quite flexible, and easily adjusted to changing social and political contexts. I had made a similar argument for the *shari'a* under the Mughals,[14] but what I seek to add here is an understanding of the dialogues and contestations that occurred within the legal spaces, and in doing so, I make a plea for the consideration of these spaces as shaping the public sphere and the culture of the period.

Indeed, our knowledge of law and the legal process in the colonial period is quite dense and rich, and serves to remind us of how little we know about the legal order in the pre-colonial period. One recent work that certainly goes a long way in addressing this inadequacy is Nandini Chatterjee's *Negotiating Mughal Law*. Tracing the fortunes of a petty landholding family in Malwa over successive generations, Chatterjee has commendably brought to the fore the role of law and legal instruments in the preservation and expansion of the assets of this family.

[13] See, for example, Leslie Pierce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (Berkeley: University of California Press, 2003); Judith Tucker, *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (Berkeley: University of California Press, 1998); Ronald Jennings, *Studies in Ottoman Social History in the Sixteenth and Seventeenth Centuries: Women, Zimmis and Shari'a Courts in Kayseri, Cyprus and Trabzon* (Istanbul: Isis Press, 1999); Ronald Jennings, *Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1570–1640* (New York: New York University Press, 1993); Haim Gerber, *State, Society and Law in Islam: Ottoman Law in Comparative Perspective* (Albany: State University of New York, 1994).

[14] Hasan, *State and Locality in Mughal India.*

Focusing on the 'little people' instead of larger sociopolitical structures, she is able to draw attention towards the negotiations on the ground, and how locally powerful men negotiated with the legal system to further their social and economic interests.[15] In line with her effort, but with a narrower time period restricted to the Mughal empire, I have here sought to examine the legal order as informed by state formation from below. My focus is still on state–society relations, and viewing the legal order as a sociocultural space, I look at the complex engagements of social actors with the state–society complex of authority in the spaces constituted and reproduced by the legal order.

The point that I seek to put across is that the legal order was crucially shaped by initiatives from below, and we get a flawed, if not erroneous, picture if we keep the spotlight on the imperial court, legal–sacral texts, and their normative underpinnings. Unfortunately, this is how most historians have understood the legal system in Mughal India, and one consequence of this has been the identification of the legal order with the state. In more sophisticated analyses, the law is seen as an instrument of the state, enforcing its will, and legitimating its structures of domination.[16] This seems to be a specimen of state-centred historiography, and clearly inadequate because the space of the legal order was far in excess of the space of the state. In view of the overwhelming presence of multiple centres of dispute resolution, and evidence of forum shopping, I am persuaded to see the legal order as an instance of legal pluralism. Of course, the inspiration for this comes from the path-breaking work of Lauren Benton, who has studied the transformation of a global plural legal order with a state-centred one under European colonialism, and has seen this change as amounting to a shift from 'strong' to 'weak' pluralism.[17]

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[15] Nandini Chatterjee, *Negotiating Mughal Law: A Family of Landlords Across Three Indian Empires* (Cambridge: Cambridge University Press, 2020).

[16] See, for example, M. L. Bhatia, *The Ulema, Islamic Ethics and Courts under the Mughals: Aurangzeb Revisited* (New Delhi: Manak, 2006); M. L. Bhatia, *Administrative History of Medieval India: A Study of Muslim Jurisprudence under Aurangzeb* (New Delhi: Radha Publications, 1992); S. A. Nadeem Rezavi, 'Civil Law and Justice in Mughal Court', *Proceedings of the Indian History Congress* (*PIHC*), 54th session, Mysore, 1993, pp. 188–99.

[17] Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900* (Cambridge: Cambridge University Press, 2001); Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge: Cambridge University Press, 2010). Also see Lauren Benton and Richard J. Ross (eds.), *Legal Pluralism and Empires, 1500–1850* (New York: New York University Press, 2013).

Even as her work offers interesting insights, I believe that the term 'legal pluralism' should not end up becoming a broad brush that serves to obliterate spatial and temporal distinctions. Among the issues that, perhaps, need to be considered are the distinctions in the pre-colonial legal culture that were related to the agency of the state, and the nature of state–society relations. It is these issues that provide the backdrop to my study of the legal system in this work.

While my work eschews state centrism and makes a persuasive argument in favour of legal pluralism, I still find merit in exploring the agency of the pre-colonial state in shaping the nature of legal pluralism in early modern South Asian history. Furthermore, I argue that within the plural legal order, the multiple centres of dispute resolution were not distinct entities; indeed we should take note of the overlaps among them and, more importantly, the communications between them. These communications, it seems, served to push the state, through initiatives from below, into a position of some significance, for the state was not just seen as the mediator between competing norms and laws, but was also considered as the protector of the shared normative system. In order to study the legal order, we cannot afford to ignore the state, but the state should itself be seen as a social formation, constituted and reproduced in the local legal spaces by the social forces. The framework that is suggested here should hopefully be of some relevance for the study of the legal order in not just the Mughal empire, but other early modern Persianate empires as well.

The point that this work drives home is that there is a need to bring the state back in, without necessarily reviving the myth of its intentionality, uniformity, and absolute authority. It is suggested that increasingly in the eighteenth century the state was beginning to claim a space of pre-eminence in the legal field, but the state's cutting edge was not based on imperial initiatives, but was a function of pressures from below. The local relations of power were pushing the state into assuming a leading role in the plural legal order. The court of the *qāzi* was marked by the active participation of not only the petty state officials, but also the local elites, community leaders, heads of caste bodies and corporate bodies, *muhalla* chiefs, and so on. The judicial process was a participatory one, and involved them as active agents and co-participants. Furthermore, the *qāzi* was just one state official in the localities; there were several other officials who could, sometimes in collusion with, other times in collision with the *qāzi,* arbitrate and settle disputes. There was obviously a locally informed political context that informed their judgments, but this should not encourage us to side-step the emergence of an evolving, shared, and agreed, if still contested, normative system.

Since I see the legal order as constituting the public sphere, it seemed appropriate to conclude this study with an assessment of the nature and forms

of social communication. As it is, when it comes to issues of communication and knowledge, Mughal historians have barely scratched the surface, and this is rather unfortunate because without addressing these issues, our understanding of the culture of their period clearly remains woefully inadequate. Furthermore, our deficient knowledge here has also prompted a skewed understanding of colonial knowledge as well. In a work of wide-ranging ramifications, C. A. Bayly has argued that the British knowledge about India was not simply a unilateral construction of categories of difference in pursuit of global domination, but was a far messier product, shaped not just by British imperial interests, but also the inputs, aspirations, and perspectives of the indigenous communities and their embodied knowledges. 'The Indian ecumene', as he terms it, was not a simple mimetic formation passively imbibing modern western thought and epistemic concepts, but was dynamically constituted by multiple networks of the information order, most of which were in place during the seventeenth and eighteenth centuries; the British inserted themselves into these indigenous conduits of information and knowledge, and this provided the necessary backdrop to colonial expansion in India.[18] The significance of the 'dialogic process', one that involved a wide range of constituencies in 'constructing' colonial knowledge has similarly been highlighted by Eugene Irschik in his work on south India in the eighteenth and nineteenth centuries.[19]

The important point here is that 'orientalism', in particular the British imperial discourse about India, tapped into indigenous information networks and systems of social communication that had come into existence in the seventeenth and eighteenth centuries. Among the varied worlds of knowledge that moved around these inter-subjective communicative spaces, Bayly draws attention to two that were particularly significant: 'patrimonial knowledge' and 'affective knowledge'. The 'patrimonial knowledge' imbibed the domain of high culture and was, in the words of Bayly, 'deep and detailed knowledge' that was mostly literate and was linked with the court culture. The 'affective knowledge', on the other hand, was 'the knowledge gained from participation in communities of belief and marriage'.[20] While these distinctions are useful, I argue here that we need to be attentive to the communications between the varied forms of knowledges, and the negotiated

[18] C. A. Bayly, *Empire and Information: Intelligence Gathering and Social Communication in India, 1780–1870* (Cambridge: Cambridge University Press, 1999).

[19] Eugene F. Irschik, *Dialogue and History: Constructing South India, 1795–1895* (Berkeley: University of California Press, 1994).

[20] Bayly, *Empire and Information.*