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TOWARD A HISTORY OF DOCUMENTS IN MEDIEVAL INDIA: THE ENCOUNTER OF SCHOLASTICISM AND REGIONAL LAW IN THE *SMṚTICANDRIKĀ*

DONALD R. DAVIS, JR.

A PERENNIAL CHALLENGE in the study of law in medieval India concerns the encounter of scholastic legal discourse and local and regional practices of law. Composed over a period of roughly two thousand years, the notoriously ahistorical Sanskrit textual corpus called *dharmaśāstra* contains systematized discussions of all major legal topics, codified and elaborated through centuries of scholastic commentary and compilation.[1] Datable, locatable evidence for the practice of law in similar topical areas and over a similar length of time, however, is either scarce, nonexistent, or unstudied. Indologists have approached this divide in several ways, ranging from naïve acceptance of the scholastic corpus as evidence of historical practice to the total rejection of the texts as a fantasy of luxurious Brahmins.

The present article takes up the use of documents as a revealing focus for approaching the encounter of text and practice in the laws of medieval India (ca. 600–1500 CE, though no one agrees about these limits). The range of written material available from medieval India may be roughly classified into three groups: 1) texts, substantial writings by eponymous authors of uncertain dating that contain treatises or original works of literature, theology, law, science, and so forth, generally preserved on palm-leaf, or later paper, manuscripts that were continually recopied; 2) inscriptions, short and medium-length writings by notable political figures and donors that record a specific event, giving the relevant names, places, and inscribed on durable substances such as stone or copper; and 3) documents, typically short records of particular transactions, agreements, contracts, and so on that specify the parties' names, the materials involved, and other transactional details, written on less durable materials such as palm leaf, birch bark, or prepared fabric and rarely recopied.[2] Within the last group, many types

I acknowledge with gratitude the valuable feedback and suggestions for improvement given to me by Elizabeth Lambourn, Patrick Olivelle, and the two anonymous reviewers of the journal.

1 Lingat, *Classical Law of India*; Olivelle, *Dharmasūtras.*

2 These large categories and the subcategories within them are all conveniences that are belied by regular categorical crossovers. So, the poetic preambles of Sanskrit inscriptions

of "document" are spoken about and sometimes copied into "texts" in the special sense above, though we do not have preserved examples of all types outside of the texts. From the other side, the types of historical documents actually known from medieval India far exceed the categories described in *dharmaśāstra* or in other textual sources.

The focus here will be a fresh translation of the description of documents in the twelfth-century digest of Hindu law called the *Smṛticandrikā*, (Moonlight on the Laws) and its possible historical value.[3] Its author, Devaṇṇabhaṭṭa, came from South India and some of his views (for example, the idea of inheritance by birth) reflect regional views, but beyond this fact we know only his name and that of his father. His digest of laws is one of the most comprehensive and thoroughly explained in the entire corpus of *dharmaśāstra*. Like all digests of law in Sanskrit, the *Smṛticandrikā* collects relevant legal rules from "root-texts"—undated earlier texts by eponymous authors—arranges them topically, and provides explanations and clarifications in the form of scholastic commentary. As such, it provides a reliable and intelligent discussion of every major topic of Hindu law, from daily and occasioned ritual practice to legal procedure and substantive law to penance and punishment.

The thoroughness and comprehensive intent of the *Smṛticandrikā* make it an ideal starting point for a more detailed examination of the use of documents within medieval South Asian legal practice because this scholastic text categorizes myriad types for which historical examples exist. The discussion of documents that will be presented here is found within a larger section on legal procedure and state policy (*vyavahāra*)—more precisely as part of the description of evidence accepted in courts—and it describes thirteen different document types under the twin rubrics of "royal" and "popular" documents.[4] Therefore, historical legal practice is recorded in the special idiom of Sanskrit scholasticism, even though

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are often on par with the best poetry found in texts. Inscriptions likewise can function like documents, legal and/or political. Salomon (*Indian Epigraphy*, 110) discusses such overlap in the context of his now standard survey of the Indo-Aryan inscriptional corpus.

3 Srinivasacharya, *Smṛticandrikā by Devaṇabhaṭṭa.*

4 The distinction between "royal" (*rājakīya*) and "popular" (*jānapada*, *laukika*) is basic to all discussions of documents in Sanskrit. The first is easier to grasp as the set of documents initiated and executed by the state. The second refers to ordinary documents used for the transactions of private people. One reviewer suggested "civil" instead of "popular," but this carries too many connotations of citizenship and connection to a political body. "Popular" documents are those relating to or generated by the general public as opposed to the government. Unfortunately, no single adjective is ideal in translation.

such practice can only be situated in place and time through other evidence.[5] More importantly, however, the way in which different documents are placed into categories reveals cultural understandings of the distinct functions and purposes of those documents. Legal documents themselves do not come with a guide on how to interpret them, but the scholastic texts do, even if one must also read their taxonomies with a critical eye. The *Smṛticandrikā* discloses political, social, religious, and economic functions of legal documents, giving us a window into the cultural significance of documents beyond the legal arrangements described in the documents themselves. The important conclusion to be drawn here is that the scholastic tradition of *dharmaśāstra* helps us to do more than speak of generic "documentary culture" and rather helps to draw meaningful historical and cultural distinctions between the materials and functions of different documentary types in medieval India. Although they may seem to be straightforward carriers of information, documents are no more transparent than other types of writing, and we must, therefore, attend to their contexts and social construction.

The history of law is in part the history of legalism, the processes by which rules and categories are used to order a conceptual world, typically one invested with religious or moral value. Paul Dresch writes, "Legalism means the world is addressed through categories and [explicit] rules that stand apart from practice."[6] What *dharmaśāstra* texts offer historians is an important Indian articulation of the salient categories of legal thought and rule formation. As one of the most cogent and clear categorical presentations of the rules for documents in Sanskrit, the *Smṛticandrikā*, therefore, gives us insight into how practical documents may have been received: that is, how they fit into the conceptual frameworks of the time. The scholastic nature of the *Smṛticandrikā*, however, limits how much history we can read into the text.[7] On the one hand, we feel the author's scholastic compulsion to be true to the commentarial tradition by not elaborating further categories of document beyond those mentioned in the accepted root-texts; on the other, the author is also frustrated by knowing how many more types of document actually existed "in accordance with local standards."

The Social History of Documents in Medieval India

In an important way, this is the story of law: the formation of endless practical legal arrangements, the creation of rules and categories to tame them, and the subse-

5 See Lariviere, "*Dharmaśāstra*, Custom, 'Real Law,' and 'Apocryphal' *Smṛtis*."

6 Dresch, "Legalism, Anthropology, and History," 15.

7 Rocher, *Studies in Hindu Law.*

quent mutual development of (and tension between) both as an ongoing encounter.[8] Within that story, I provide first a very cursory overview of documents from medieval India, relying on existing syntheses of various sources for the history of written materials in India. I then give a full translation of the chapter defining documents in the *Smṛticandrikā*, in order to make one influential systematization of rules and categories available to a wider audience. The idea is to lay out a preliminary scheme for what it would take to write a fuller history of legal documents in medieval India. What we need in South Asian history is a volume like M. T. Clanchy's classic *From Memory to Written Record*. Essentially, I would like to sketch here how it might be done and to relate that sketch to the question of legal encounters.

The most comprehensive work to date on forms of documentation in medieval India is Ingo Strauch's edition and translation of the *Lekhapaddhati*,[9] a formulary of written exemplars of nearly one hundred types of document compiled between the thirteenth and fifteenth centuries. Here, we have letters addressed to figures ranging from an honored teacher to family members to friends; "public documents" such as royal instructions, decrees, tribunal decisions, charters, seizure notices, official communications, and ordeal certificates; "private documents," including commercial contracts, sale deeds, mortgages, receipts, gift records, and bills of safe passage; and "additional documents," covering tax notices, court judgments, bills of credit, and diplomatic communiqués. The huge number of document types modeled in a regional form of Gujarati-Sanskrit immediately tells us that, by the fifteenth century, documents of considerable variety were known to formulary compilers and, we can safely assume, in practice. Because they provide exemplar-like models—with names, amounts, and other details—formularies like the *Lekhapaddhati* get us close to practice without containing the records of actual legal transactions.

In addition to excellent work on the formulary itself, Strauch also provides a thorough study of the development of *dharmaśāstra* rules concerning documents in ancient Indian law.[10] He stops, however, with the last major root-text in approximately the seventh century, ignoring all of the commentarial literature that followed down to the eighteenth century. While understandable, given his purposes, it is precisely in the commentarial syntheses of the root-text material that we find a more coherent and complete view of the rules and categories for documents in

8 For a description of an exemplary regional case of this encounter in late medieval Kerala, see Davis, "Recovering the Indigenous Legal Traditions," 166–67.

9 An English translation, but much less reliable than Strauch's edition and German translation, can be found in Prasad, *Lekhapaddhati*.

10 *Die Lekhapaddhati-Lekhapañcāsikā,* 19–52.

medieval India. However, it is Strauch's impulse to move between documentary instance and categorical reflection that I want to emphasize.

The other essential starting point for a history of documents in medieval India is the work of Richard Salomon, and D. C. Sircar before him, on India's large corpus of inscriptions. Salomon is the latest in an illustrious line of epigraphy scholars whose fundamental work made South Asian historiography possible in the first place. Pertinent to both documents and epigraphy, Salomon notes that "the history of ancient and medieval (i.e., pre-Islamic) India must for the most part be reconstructed from incidental sources; that is, sources whose original intent was something other than the recording of historical events as such."[11] The line between document and epigraph is not always clear. Thus, Salomon's typological, chronological, and geographical surveys of the inscriptions in Indo-Aryan languages include contracts, donations, and charters, among other genres that might be classed as documents. The principal distinction lies rather in the material form, documents usually being written on palm leaf, birch bark, and (later) paper. The almost total lack of self-consciously historical texts in India, which is not the same as a lack of historical sense or orientation, has made epigraphy into "a primary rather than a secondary subfield within Indology" not a "corroborative and supplementary source" as in other areas of the world.[12] The challenges of Indian epigraphy for historians are unique: "Not only is the material vast, voluminous, and inherently difficult; it also requires a command of a range of languages, dialects, and script forms far greater than that needed for epigraphic studies in most other parts of the world."[13]

Together, Salomon, Strauch, and others supply a promising baseline for a richer history of documentary cultures in medieval India. Through their work, one finds important earlier studies of epistolary writing,[14] of regional and dynastic collections of inscriptions,[15] and of temple and royal archives.[16] If combined with analy-

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11 Salomon, *Indian Epigraphy*, 3.

12 Ibid., 4.

13 Ibid., 5–6.

14 For an overview, see Michaels, "Practice of Classical Hindu Law," 63–67. Among many collections and studies of formularies and epistolary writing, see also Thakur, "Documents in Ancient India"; *Sanskrit Documents*; Banerji, "Study of the Epistolary and Documentary Literature"; Vidyāpati Ṭhākura, *Likhanāvalī*; Salomon, "*Ukti-Vyakti-Prakarana*." In a recent study of the *Likhanāvalī*, Jha ("Beyond the Local and the Universal," 35) makes the very plausible suggestion that collections of models for different types of writing for Indic languages were triggered in part by the influence of Persian *inshā* texts.

15 Salomon's bibliography (*Indian Epigraphy*, 311–27) is indispensable as a reference for general, regional, and specific studies of Indian epigraphy.

16 Archival studies focused on law include Gune, *Judicial System of the Marathas*; *Documents*

ses of *dharmaśāstra* and other textual material, at least two important types of documentary histories could emerge. First, more regionally focused histories that describe the typology and chronology of documents in relation to political, legal, economic, religious, and other social historical themes would bring the documents out of their incidental historical connection and into an interpretive framework. The narrower range of languages and scripts involved make such work possible and would, in turn, create the conditions for a macroscopic overview of document usage. The goal of this second type of history would be a story about the impact of documents throughout the medieval period in India, but with the necessary attention to differences of pace and usage that regional histories reveal.

By attending to the specificities of documentary categories, of regional patterns, of narrative depictions of document use, and of textual prescriptions for documents and their authentication, we could move beyond vague invocations of literacy and documentary culture in the singular.[17] Writing itself, of course, produced momentous changes in India as it did everywhere, but its introduction was neither definitive nor suddenly widespread. In fact, only careful collation of existing enumerations of inscriptions and documents can yield a sense of when the use of writing per se accelerated, and which specific types of writing emerged when. The key for any history of documents, in my view, is the desperate need for better interpretive theoretical frameworks within which one can make sense of writing from medieval India. Exemplary work, usually based on inscriptions, does exist,[18] but so much more is waiting to be studied and, further, to be synthesized beyond the few regional frameworks that have paved the way for future work.

Legal Encounters of Text and Document

One important source of guidance for a social history of documents will be their interface with textual traditions like *dharmaśāstra*. While always suspicious in their highly systematic and list-oriented presentation, *dharmaśāstra* texts, especially medieval commentaries and digests, give us a preliminary schema of categories and rules within which to place the dated documents of practice. A study of the connections and disconnections between texts and documents, therefore, helps us avoid imposing anachronistic or culturally strange assumptions on the

from the Rudravarṇa-Mahāvihāra; *Vanjari Grandhavari*; and Davis, *Boundaries of Hindu Law*.

17 As in Gurukkal, "Shift of Trust from Words to Deeds."

18 So, for example, Stein, *Peasant, State, and Society*; Chattopadhyaya, *Studying Early India*; Orr, *Donors, Devotees, and* Daughters; Talbot, *Precolonial India in Practice*; and Veluthat, *Early Medieval in South India*.

material. This dilemma is nothing new, of course, being a version of a central problem of the modern debate over law in action *versus* law in books and the conflicts among positivists, naturalists, and realists, each of whom adopts a distinctive attitude toward the value of written law and its encounter with practical legal problems.[19] When it comes to the role of documents, the *Smṛticandrikā* suggests that their legal functions are better captured in texts while their historical valences are better seen in practical examples.

Consider, for instance, the opening distinction made between royal and popular documents in the *Smṛticandrikā*. The legal effect of this distinction is still not fully understood. For example, to interpret a copper-plate inscription sealed with wax by a king or a royal inscription on stone as a legal document is to place it in a culturally and historically incongruous category. The *śāsana*, decree or edict (most often a donation), was first of all a political act that had religious and legal side effects. In the name of magnifying the king's glory and political power, decrees generated religious merit for the donor(s), and they conveyed legal privileges, exemptions, and protections on the beneficiaries. However, a royal decree in medieval India was neither a legislative declaration of a general law nor a record of legal arrangements intended for evidentiary use in courts.[20] As the *Smṛticandrikā* suggests, the main threat to a royal decree was a later king (see 1a below), whose violation of the gift would undermine both its religious and legal value. Contravention by a later king, moreover, would allow no legal recourse through the evidence of the decree. That is to say, there was no way to take the new king to court, if he

19 Lon Fuller's classic satire, "Case of Speluncean Explorers," is as good a place as any to discern the real difficulties of adopting any rigid, inflexible attitude, no matter how principled, toward the authority of written law.

20 This strong statement relies on a distinction of political and legal actions that I see as important and basic in the legal categories of *Dharmaśāstra*. Consider the recently examined example of the eighth-century Vēḷvikuṭi copper plates: Gillet, "Dark Period," 294–97. The inscription portrays a Pāṇḍya king restoring a grant of land that had been seized by the notorious Kalabhra kings to a group of Brahmins, after they had produced a document showing the antiquity of the grant (*nāṭṭāl niṉ paḻamai (y) ātal kāṭṭi*). In my view, the scene conforms well to the future political threats against land grants by later kings described in the *Smṛticandrikā*. The aggrieved Brahmins make an appeal to the current, benevolent king to restore a lost grant, and the king in turn "magnanimously accepted [their appeal and document] as a royal act of grace" (*cemmānt' avaṉ eṭutt' aruḷi*). There is no legal case against anyone, least of all the offending kings. Rather, the plea is for the new king's grace and beneficence. If the circumstances were legal in nature, we could imagine the Brahmins having some other recourse, in case the king did not accept their plea and proof. The fact that they obviously do not have any such legal option leads me to characterize this and similar situations as primarily political in nature. Any legality in such cases is fragile at best.

chose to violate the terms of the old king's decree. Only political and moral appeals were possible. In this way, the difference between royal and popular documents is nontrivial and shapes how we should understand the reception of different document types in context.

By contrast, the verdict or "victory-document" (*jayapatra*)[21] at the conclusion of a full-blown trial is also classed as a "royal" document (see 1b below), but it is intrinsically legal as well. One might expect that the frequent injunction to provide a written verdict to a successful litigant would have generated many historical examples of litigated case law for medieval India.[22] Unfortunately, I am not aware of a single example of a *jayapatra* from India that delineates a full trial prior to the eighteenth century.[23] To find them, we have to travel to Java and to Mason Hoadley's essay on the transplantation of the *jayapatra* to Java, which remains the best survey and study of *jayapatra*s, even for India.[24] While acknowledging that some link to India and some practical presence of verdicts there must have existed, Hoadley shows that the evidence for written verdicts in Java (and Cambodia) begins in the tenth century, at least three centuries before any Indian attestation. Even allowing for the inevitable loss of the majority of such verdicts due to the fragility of writing material and environmental factors, the paucity of examples for medieval India still suggests that document production by Indian courts was neither vibrant nor prolific. Nevertheless, the transplanted and modified forms found outside India do help soften the argument from silence and seem to allow us to justify the use of extensive *dharmaśāstra* discussions of verdicts in describing the practical legal use of writing in the medieval period.

If the adjudication of civil matters was meant to produce a written verdict, how then were evidentiary documents used in those judicial contexts? Here again, in addition to cataloging their various types (*lekhyanirūpaṇam*), *dharmaśāstra*

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21 Sanskrit orthography would normally require *patra*, "leaf, document," to be written *pattra*. However, the usage of *patra* with a single "t" is so ubiquitous in both inscriptional and manuscript evidence of medieval India that it seems artificial to "correct" what was obviously an accepted spelling in this period. I have retained the spelling *patra*, exclusively used in the *Smṛticandrikā*, throughout.

22 Similarly, one would expect the *Dharmaśāstra* texts to refer to the ubiquitous Indian practice of inscription on stone, but they do not.

23 In addition to the *jayapatra* of 1794 which he translates, Lariviere ("Witness as the Basis," 53–57) tries valiantly to adduce reasons why we would not find *jayapatra*s (decay of manuscript materials and transfer of cases to Mughal courts), but manages to find only two ordeal-related (and very truncated) examples from seventeenth-century Karnataka and nine additional examples from the eighteenth and nineteenth centuries.

24 Hoadley, "Continuity and Change."

supplies extensive discussions of the verification of documents' legal validity (*lekhyaparīkṣā*),[25] including the required elements, restrictions on who may have documents made, and many faults which nullify their evidentiary value. A desire for authenticity and avoidance of forgery drives the discussion. Indeed, one senses a mistrust of documents as legal evidence throughout. That same mistrust shows up in the premium placed on the testimony of witnesses. In fact, as Richard Lariviere has argued, documents of many kinds fail without the support of witnesses, to the point that the witness becomes the paradigmatic mode of proof in Hindu law.[26] Unlike in Islamic law, however, documents always retained explicit doctrinal sanction as evidentiary proof in *dharmaśāstra*.[27] The effects of this cultural suspicion led to the abundant use of witnesses to documents in both theoretical discussions and practical examples. Royal documents written by the king himself and sealed with the royal seal, however, were accepted even without witnesses' signatures.[28] Without this interpretive frame about the role of witness made possible by *dharmaśāstra*, we run the risk of succumbing to the "prejudice in favor of literacy" which Clanchy warns us against.[29] In order to see the interpretive help offered by *dharmaśāstra* in greater detail, let us now examine the full discussion of documents in the *Smṛticandrikā*.

Translation of the Chapter entitled "Definition of Documents" in the *Smṛticandrikā*

My translation below is based primarily on the text edited by Srinivasacharya,[30] but occasional textual emendations have been made using a compendium known as the *Dharmakośa*. I have benefitted greatly from the earlier, hard-to-find translation of J. R. Gharpure and from suggestions by Patrick Olivelle. In general, Gharpure's translation is good, but it leans heavily toward an off-putting hybrid of Sanskrit and English and consists too often of paraphrase rather than translation. As a result, a new translation was essential.

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25 This section of the *Smṛticandrikā* follows immediately after the one translated here.

26 Lariviere, "Witness as the Basis."

27 Compare the well-known proscription of documents as evidence in classical Islamic law and its practical encounter with Muslim communities. See, for example, Messick, "Just Writing." The broad emphasis of the two traditions seems reversed while the practice appears closer.

28 Lariviere, "Witness as the Basis," 67; see also 1a, 1c–e, below.

29 Clanchy, *From Memory to Written Record*, 7.

30 Srinivasacharya, *Smṛticandrikā by Devaṇabhaṭṭa*, 3:125–39.

The chapter opens with a preamble on the two categories of documents and is subdivided thereafter into two sections, royal (section 1 in this translation) and popular documents (section 2). Under royal documents are discussed decrees (1a), verdicts (1b), orders (1c), instruction documents (1d), and "documents of gratitude" (1e). The section on popular documents, by contrast, departs from this typological classification to discuss "types of popular document" (2a), followed by a concluding discussion of "the utility of popular documents" (2b). The names of the eponymous authors of the legal root-texts structure the exposition, with the commentator's elaborations bringing these disparate sources together.

Following Indological conventions, I have placed cited root-texts in bold, along with words and phrases glossed from them. Sanskrit commentaries often simply gloss one word with another, making an elegant English rendering difficult in many places. Page numbers to the Srinivasacharya edition are indicated in brackets for ease of reference.

Preamble: The Two Categories of Documents

[125] Among the three forms of evidence,[31] Vasiṣṭha[32] states:

> **One should know that documents (*lekhya*) fall into two categories: common and royal.**

Common is also called "popular." So says the maker of the Collection:[33]

> **The traditional texts state that what is written is of two types: royal and popular.**

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31 Namely, documents, witnesses, and possession, first mentioned in the *Vasiṣṭhadharmasūtra* 16.10: see *Dharmasūtras*, trans. Olivelle, 413. However, Strauch considers this a later interpolation belonging likely to the period of the *Laws of Yājñavalkya* or the *Laws of Nārada*, made perhaps in fourth or fifth century CE, in which documents become more prominent: *Die Lekhapaddhati-Lekhapañcāsikā,* 51.

32 This name of a reputed author of a root-text of *Dharmaśāstra* is the first of many mentioned in the ensuing discussion. Most are names of legendary sages of the Hindu tradition. Apart from relative chronology and mythological associations, we know very little about the dates of the texts or the biographies of their authors.

33 The author of the *Smṛtisaṃgraha* (The Collection of Traditional Texts) is simply known as Saṃgrahakāra, the "maker of the Collection," in the *Smṛticandrikā* and elsewhere. The collection is known to us only through its citation in later digests and commentaries. See Kane, *History of Dharmaśāstra*, 1:537–41.

1. Royal Documents

Of these, Vasiṣṭha states that the royal is of four types by dividing them into the decree, and so on.

> **The royal is of four types: 1) the first is known as the decree (*śāsana*), 2) the next is the verdict (*jayapatra*), 3) the order (*ājñā*), and 4) the instruction-document (*prajñāpanapatra*).**

1a. Decrees

Among these, Yājñavalkya proceeds to define the decree.

> **When a king grants land or creates an endowment, he should have an inscription (*lekhya*) made in order to inform good kings of later times.**

An **endowment** is property that is to be acquired through an arrangement with the king, for example: yearly or monthly, those who are engaged in commerce and the like shall give a certain amount of wealth to this Brahmin or to this deity. Here, even though it is the people engaged in commerce who actually give the property, the merit nevertheless belongs to the one who makes the endowment, because the actions of the former happen only because of the latter. The word **land** serves to indicate sub-varieties such as villages, gardens, and so on. From this, Bṛhaspati:

> **After he donates land and such, the king should have a charitable (*dharmya*) decree executed on copper-plate or on cloth[34] that contains the place, dynastic lineage, and other details.**

Have executed, by the official in charge of peace treaties, war declarations, and the like[35]—this completes the sense, because in this case there is a restriction on who may be an executor of his writings. Vyāsa says the same:

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34 *Paṭe*, "on cloth," seems to refer to a specially prepared cloth, usually cotton, made somewhat stiff or sized "through the application of pastes and then inscribed with a stylus": Sircar, *Indian Epigraphy*, 66–67. Unfortunately, not a single example of such a cloth bearing a royal decree has survived to the present, though similar types of canvas are widely used for ritual text production and sacred art: see Kapstein, "Weaving the World"; Hatley, "Paṭa." It may also have been the case that such canvases were used for "archival" copies of royal decrees kept by a king's officials or for draft copies of grants eventually inscribed on more permanent surfaces. For further description, see Salomon, *Indian Epigraphy*, 132. My thanks to several members of the Indology listserv for clarifying this term.

35 The term *saṃdhivigrahādikāriṇā* likely indicates the scribe of a minister of peace and war, but it may refer to the minister himself. The two are clearly distinguished in a passage

> **As instructed by the king himself, the scribe in charge of peace treaties and war declarations [126] should write out the king's decree on copper-plate or else on cloth, detailing the connection of the action and the agent, including the action taken and the brief purpose.**

The connection of the action and the agent, meaning a decree which includes the connection between the action and the agent.[36] **Including the action taken and the brief purpose** means that the decree should incorporate the action taken along with a brief statement of its purpose.[37] Yājñavalkya states what details should be written at the beginning of a copper-plate:

> **The lord of the earth should inscribe his own lineage ancestors and himself and then a description of the grant, the extent, and the delineation of the gift.**

At the beginning, he **should inscribe** in the customary manner a benediction communicating the gift of boons by the glorious king, whose realm is the whole raised earth, and who is the very body of Lord Varāha. And then, he **should inscribe** the names of his **three lineage ancestors**—great-grandfather, grandfather, and father, in that order—by means of a description of their virtues such as heroism and so forth, **and himself** as the fourth. Then he should have written the grant, the extent, and so on. **Grant** in this case means what is being granted, that is the land or the endowment.[38] Its **extent** means the quantity. **The delineation of the gift** signifies the boundaries of the land and such that is being given.[39] Vyāsa too states:

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of Vyāsa below, but not elsewhere. In any case, this ministry is regularly given responsibility for drafting royal decrees. See Scharfe, *State in Indian Tradition*, 151–52; and Sircar, *Indian Epigraphical Glossary*, 295.

36 The gloss in this case simply clarifies that the connection should be written as part of the decree itself and not separately, which is not perfectly clear from the root text. The compound *kriyākārakasaṃbandhaṃ* must be interpreted as a *bahuvrīhi*, which means literally, "in which there is a connection of action and agent," in order to link it to the word *śāsana*, "decree." The action refers to the detailed terms of the grant or decree and the agent specifies that it is the king himself who takes the action.

37 Grants of the sort being described often include a short statement assigning the spiritual merit or beneficiary of the donation or indicate another purpose for making the gift. The verse from Vyāsa below provides an example.

38 The word in question is *pratigraha*, which can signify both the acceptance of a gift and the gift itself. Devaṇṇabhaṭṭa ensures that the latter meaning should be understood here.

39 The gloss in this case is sensible, but the term *dānaccheda*, literally "cutting the gift," is also regularly used to refer to imprecations against those who might violate or renege on the gift in the future. See the texts from Bṛhaspati and Vyāsa below.

> **Indicating the year, the month, the fortnight,[40] the day, and the name of the king, as well as the caste and other details, and the kin-lineage and Vedic school of the recipient.[41]**

The second half of this verse means that one should also write the caste (*jāti*), family, and Vedic school, in order to make clear the unique character of this donation.[42] Similarly, other things should also be written, as Vyāsa himself states:

> **He should write down the locale, lineage ancestry, region, village, and what is received, informing the Brahmins[43] and all other dignitaries, officials, [127] heads of important families, managers, envoys, physicians, and village headmen, all the way down to foreigners and outcastes: "For the merit (*puṇya*) of my mother and father and of myself, I give this gift to so-and-so of this Vedic school, the son of so-and-so."**

So also, Bṛhaspati:

> **A gift should never be divided or taken away; it should be free from all interference;[44] it should endure for as long as the moon and sun shall last; and it should pass down from son to grandson and to all descendants. The donor and the protector of a gift shall enjoy heaven, but the one who rescinds it shall suffer hell for sixty thousand years—these are the rewards of giving and violating that he should write down.**

To complete the sense, he does this in order to admonish future kings and others. Vyāsa has exactly this in mind:

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40 Indian calendars, especially ritual calendars, recognize both a bright and a dark half of the month, or lunar fortnight, following the phases of the moon.

41 The compound *sagotrabrahmacārikam* refers to the *gotra*, one of several Indic kinship groups, and *śākhā*, the special branches or schools of Vedic recitation. The *Smṛticandrikā* makes this identification clear below, but see also *Mitākṣarā* on *Yājñavalkya* 2.85. See the similar requirement in section 2 below.

42 In other words, as Gharpure's translation suggests (*Smṛticandrikā*, 101), the decree should be written to allow the gift, the donor, and the recipient to be uniquely and completely identified.

43 Read *brāhmaṇāṃs tu* for *brāhmaṇasya*. See *Dharmakośa* 1.375.

44 The compound *sarvabhāvyavivarjitam*, unexplained in the *Smṛticandrikā*, is taken by one commentator to mean *devabrāhmaṇanāpitādilabhyavarjitam*, "exempt from the dues normally given to gods, Brahmins, barbers, and so forth" (*Dharmakośa* 1.365). Another digest offers the easier reading *sarvabhāgavivarjitam*, "exempt from all taxes," especially those levied to support the maintenance of the king's military (*Dharmakośa* 1.365).

> **The king should write the rewards of giving and violating that shall last for sixty thousand years in order to admonish future kings and governors.**

Similarly, another verse, recorded only by him, should also be written.

> **This bridge of the Law is shared by all kings. May you protect it time upon time, as the good Lord Rāma calls anew upon all the illustrious lords of the earth.**

Now, the king himself should write his signature (*svahasta*). And, thus, the same author:

> **He should himself write the location and extent of the grant and his signature.**

This means he should himself write something like, "I, king so-and-so the son of so-and-so, affirm what is written here above." But, the scribe should also write his own name, as the same author states: [128]

> **The minister of peace and war or else his scribe shall at the instruction of the king himself write the king's decree. At the end, he should write his own name and seal it with the royal seal. This is the kind of royal decree relating to villages, fields, homes, and so forth.**

And, this should be entrusted to the recipient because he is the one to whom it is useful.[45] On this point, Viṣṇu:

> **He should give a document on cloth or copper plate and marked with his seal in order to inform future kings.**

The maker of the Collection also:

> **Having the mark of the king's signature and containing his command; bearing the royal name and sealed with the royal seal; in the local script,**[46]

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45 The phrase *tasyopayogitvāt*, "because he is the one to whom it is useful," indicates that the author anticipated situations in which a decree would need to be produced to verify the arrangements established by the decree itself. The kind of situation the author has in mind is noted in the next passage, namely, the failure of future kings to uphold the grant.

46 The legal validity and necessity of writing in a local script is also confirmed in section 2 below, in cases where "foreign" parties are directed to write in their own script. In fact, royal inscriptions in India almost always employ the script used in that region. The use of multiple scripts in epigraphy is rare (Salomon, *Indian Epigraphy*, 70–71), and the use

> **expressed without grammatical errors, and with complete ligatures and letters—what is granted by the king through the scribes in charge of peace treaties and war declarations is to be known as a decree.**

This means that what is **given** by the king to another in the stated form and written down **by the scribes in charge of peace treaties and war declarations** shall be given the name **decree**. But, this decree is not for the purpose of making the grant legally valid (*dānasiddhyartham*), because its validity occurs only through the act of acceptance. Rather, it is for the purpose of making the grant permanent, as the unending rewards promised depend on its permanence (*sthiratva*).[47] For, similarly,

> **For as long as his radiant fame outshines all heaven and earth shall the doer of good dwell at the foot of the divine.**[48]

With exactly the same intention, Yājñavalkya too states:

> **[129] He shall have a permanent**[49] **decree bearing his signature and the time executed.**

Bearing the time means describing the gift or other grant specified by a particular year, etc. Similarly, Vyāsa also:

> **The donor should write "I approve" in plain letters. It should also be marked with the year, month, fortnight, day, and with the royal seal. Following this procedure, he should write the document called a royal decree.**

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of more than one script in documents is unstudied, to my knowledge. Cox ("Scribe and Script," 17–22) discusses the strategic use of the non-local Nāgarī script in several royal charters of the western Cālukyas in the eleventh century, though without the use of two or more scripts in any single inscription.

47 Devaṇṇabhaṭṭa seems to intend here that only an irrevocable grant of unending duration produces the everlasting spiritual merit desired by the donor.

48 Devaṇṇabhaṭṭa emphasizes the effect of the correlative *tāvat*, "to this extent," in this verse to connect it with the issue of a grant's permanence. He implies that a king's merit lasts only as long as he continues to make gifts and protect them.

49 The word *sthira*, "permanent, fixed," and its derivatives are used several times in this section. It seems to refer, in the first place, to a longlasting material form: that a grant should be written on a permanent or durable substance, such as copper or stone. The permanence of a gift's religious reward is thus said to depend on its material permanence.

1b. Verdicts

And, similarly, the same author proceeds to define the verdict (*jayapatra*).

> **After he himself conducts legal procedures or has been briefed by the chief judge, the king should then give a verdict for the information of others.**

If one asks, to whom it should be given, he himself states:

> **A successful litigant is one who uses evidence to prove himself the owner of moveable or immoveable property in the face of a doubt raised by an accusation about a portion of it. The king should confer upon him a definitive verdict.**

Bṛhaspati, also:

> **When a king confers upon a successful litigant a document that ends with the decision and incorporates the plaint, reply, and evidence, that is called a verdict.**

Incorporates the plaint, reply, and evidence is for the purpose of providing a summary of the proceedings, because the same author also states:

> **What occurs in a legal procedure—the plaint and reply, as well as the evidence and decision—all of this should be written in a verdict.**

Vyāsa, also:

> **The plaint, the reply, the proof-stage, the adducing of evidence, the testing of it, [130] the depositions, the traditional texts, and the determination according to the assessors (*sabhya*)—all of this should be summarily written down in a verdict.**

Proof-stage refers to the phase for assigning the burden of proof also known as the determination of the burden of proof. **Depositions** means the testimony of witnesses. **According to the assessors** means without contravening the assessors. **Summarily**, briefly. Kātyāyana, also:

> **The statements of the claimant and respondent, the plaint, the witnesses' statement, and the decision that he has himself determined—this should be successively entered letter by letter on a document.**

The same author elaborates what is meant by **successively**.

> **First, the statements of the plaintiff and defendant should be entered. Then, on the same document, he should have written the determina-**

tions of the assessors, the chief judge, or, beyond these, of the families,[50] **as well as of the traditional legal treatises,**[51] **and the line of thought.**

The line of thought, of the king and the others—that completes the sense. The writing of this line of thought, however, is to be done by one's own hand, because the author had just previously enjoined the writing of a judgment in another's hand in the phrase above **that he has himself determined**. Following this, the same author states:

A litigant should be awarded with the amount proven in law and the king should, with the appropriate courtesies, give him a document containing his signature. The assessors knowledgeable in the traditions and treatises who were present for the case should likewise be required to provide their signatures, in accordance with the rules for documents.

The meaning is: In the case of verdicts, the king should require the judges to provide their signatures, as if it were a popular document.[52] Vṛddhavasiṣṭha, also:

[131] When a case has been won, the winning party should be given a verdict marked in the hand of the chief judge and other judges and sealed with the royal seal.

Kātyāyana calls this kind of verdict by the name conclusive-document (*paścātkāra*):

The wise know a document created according to this procedural rule as a conclusive-document.

But this **conclusive-document** is given only in a special type of judicial decision and not in every case, as the same author states:

A conclusive-document is given in a case where one party meets the burden of proof by means of evidence itself, but this is not prescribed for all cases.

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50 *Kulānām* seems to refer to cases in which the court of jurisdiction is an extended family or *kula*. See *Yājñavalkya* 2.30.

51 These are the *Dharmaśāstra* texts themselves, the *smṛti*s. Unlike most legal writing, the few extant verdicts or victory-documents we have do in fact cite relevant *Dharmaśāstra* rules.

52 *Jānapadalekhyavat*, "as if it were a popular document," is an important simile that emphasizes the distinction to be made between most types of royal document and ordinary documents in other contexts. *Jayapatra*s, however, resemble the day-to-day documents described below in their specifically judicial and evidentiary use in courts and in their use of signatures.

Burden of proof means what is to be proven. By saying **by means of evidence itself**, he intends to say that a conclusive-document is given only in a legal procedure with all four phases, not in a proceeding with just two phases. And Bṛhaspati makes this clear:

> **In a legal victory, one should prove the matter to be proven through all four phases of the trial. And, a verdict including the royal seal is then required.**

In a two-phase proceeding, a verdict consisting of the plaint and reply is still given, and it is only the label "conclusive-document" that is prohibited as it would not reflect an accurate summary in this case. The same author describes yet another verdict.

> **A verdict complete with a full account of the proceedings is to be given to those other than the five types of losing parties, starting with the one who changes his plea.**[53]

Those other means the party that did not lose.[54]

1c. Orders

Both the order and the instruction-document have been explained by Vasiṣṭha.

> **A document that instructs vassal kings, retainers, or regional governors and the like about what to do is called an order.**

1d. Instruction-documents

> **[132] A document that informs a sacrificial priest, a family priest, a teacher, a religious dignitary, or other honorable person about what to do is an instruction-document.**

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53 The *Laws of Nārada* (Mā 2.33) lists these five types of defeated litigants: "There are five kinds of losers: one who changes his plea, one who shows contempt for the proceedings, one who does not appear, one who does not reply, and one who absconds when he has been summoned" (*Nāradasmṛti*, 460). See also *Mitākṣarā* on *Yājñavalkya* 2.6.

54 Read *ahīnavādinām* for *hīnavādinām*. See *Dharmakośa* 1.366.

1e. Documents of Gratitude

Bṛhaspati describes yet another type of royal document called the document of gratitude.

> **When a king, being pleased with someone's service, valor, and so forth, grants in writing a locality or the like, that is a document of gratitude.**

Therefore, royal documents are of five types; one should understand the earlier statement by Vasiṣṭha that they are of four types as stated carelessly.

2. Popular documents

Now, Vyāsa defines the popular.

> **A scribe in a well-known location should write popular documents, incorporating the order of the king's lineage along with the year, month, fortnight, and time.**

Incorporating is to be read also with list beginning with the word **year**. **Time**, day. The same author states what else should be required in a document.

> **He should write the name and caste of the creditor and debtor,**[55] **as well as the names of their fathers and ancestors, along with the extent and the classification of the property and the interest agreed upon by both parties.**

Agreed upon by both is a specification that also modifies both of the words **property** and **interest**. Relatedly, Yājñavalkya:

> **In regard to any matter concluded willingly and mutually, a document should be drawn up containing the witnesses, preceded by the creditor.**

Containing the witnesses means including the names of impartial people knowledgeable about the **matter concluded**. Similarly, insofar as what is to be written with respect to the time, creditor, debtor, witnesses, and so forth possesses legal validity for its specific arrangement through specific details, a document should be drawn up that provides those details. Thus, the same author says:

> **A document should indicate the year, month, fortnight, day, name, caste, common kinship-lineage, common Vedic school, and one's own father's name, etc.**

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55 From the outset, we see that the prototypical "popular" document is a contract of loan, mortgage, or other interest-bearing financial instrument that creates a legal debt.

[133] **Common Vedic school** refers to the secondary name given to a branch of Vedic recitation such as the Bahvṛca or Kaṭha.[56] **One's own father's name** indicates the father's name of the creditor, debtor, and witnesses. The word **etc.** should be understood to mean that the inclusion of, for example, the day of the week and similar details should follow local standards. In this connection, Vyāsa:

> **In accordance with local law, the document (*kriyā*) should clearly note the actions taken, what is mortgaged, and what is received.**

In accordance with local law means the legal instrument (*karaṇa*) should follow local law.[57] **What is mortgaged** is the mortgaged property. Nārada, also:

> **A document including the witnesses should be made, in which neither the order nor the letters are broken, that follows the standards required by local law, and that is complete with respect to all required elements.**

Vasiṣṭha, also:

> **One should enter the time, the king, the locale, the residence, the names of the donor and recipient, as well as the names of their fathers, the caste, the kinship-lineage, the Vedic branch, the property, the mortgage, including the amount, the interest, the signature of the recipient, and two witnesses who know the transaction.**

Yājñavalkya states the manner in which the recipient should enter a signature.

> **When a transaction has been concluded, the debtor should enter his name in his own hand, "I, the son of so-and-so, affirm all that is written here above."**

By saying **written above**, he shows that the section of letters in one's own hand comes below the section of letters written previously. **Debtor** is intended to also indicate the witnesses. Thus, the same author:

> **And, an even number of witnesses should write their names preceded by the names of their fathers in their own hand, "I, so-and-so, am a witness to this."**

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56 Branches (*śākhā*) of the Ṛgveda and Yajurveda, respectively. Indian inscriptions regularly record the Vedic affiliations of the Brahmins when they receive grants and gifts.

57 The sense is that the form of the legal instrument should include details as dictated and expected by local custom, even if those deviate from the specific lists given in the texts.

[134] In documents requiring that the witnesses be written down, they too should each write, "I, **so-and-so**, son of so-and-so**, am a witness to this** transaction." And, they should be enumerated in an **even** number, such as two, etc. The meaning is that the enumeration should not be in an odd number such as three, etc. Some read the restriction about the number of witnesses contrarily by assuming that the negative prefix "a-" has been elided.[58] One should understand the rule to conform to the law as observed in a particular locality, and not elsewhere, for this might lead to doing as one pleases. The plural form **witnesses** refers to documents that record a very important matter,[59] because we have the statement of Hārīta that there should be just two witnesses in an ordinary document:

> **A document should be made that includes the combination of each of the following: the creditor and debtor, the two witnesses, and the scribe—and not otherwise.**

Thus, because a document written by another involves five people, namely the creditor, debtor, two witnesses, and scribe, its common designation among people is the "fiver" document. Where the number of witnesses required is more, however, that designation is considered secondary.[60] With reference to the ordinary document, Vyāsa also states:

> **It should be in the debtor's hand, including the names of the two witnesses and of their fathers.**

From this, we can see that the restriction that documents should have an even number of witnesses should be followed in a way that does not conflict with local law. But, Nārada explains what to do when a witness or debtor is illiterate.

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58 The text reads *te samāḥ*, "they being even (in number)." The contrary view, plausible due to simple scribal elision in manuscripts, would read *te 'samāh* (that is, *te a-samāḥ*), "they being odd (in number)." Two opinions are thus recorded as to whether witnesses should be even or odd in number. Unless an independent criterion is established, there is no way to determine which reading is correct. Therefore, Devaṇṇabhaṭṭa insists that local customary law should control the required number of witnesses. This allows both contradictory readings of the rule to be possible and yet still binding in practice.

59 In Sanskrit, "plural" must mean at least three, according to the simple grammatical existence of the dual number, but it might also mean exactly three according to the Mīmāṃsā maxim of the *kapiñjala-nyāya*: see *Laukikanyāyāñjali*, 29–30.

60 If a locality requires more than two witnesses, then the label "fiver" (*pañcārūḍha*, literally, "ascended by five"), in which only two witnesses appear, becomes "secondary" (*gauṇa*), perhaps a "secondary alternative."

> **An illiterate debtor should have his attestation written for him, and an illiterate witness should have it written by another witness in the presence of all the witnesses.**

A person who knows only a foreign script should also write for himself because he is literate, [135] as the statement of Kātyāyana maintains:

> **Written scripts from all localities may be entered on a document.**

Yājñavalkya explains what happens immediately after the witnesses have written their signatures.

> **Finally, at the end, the scribe should write, "As requested by both parties, I, so-and-so, the son of so-and-so, have written this.**

Vyāsa, also:

> **At the end, the scribe should write his own name in his own hand attesting, "I, so-and-so, the son of so-and-so, being asked by both parties." Thus, Vyāsa has laid down the rule in regard to popular documents.**

At the end of the document, which completes the sense.

2a. Types of Popular Document

The same author then states that the documents thus described are of eight types.

> **The eight types of common document are as follows: basic (*cīraka*),[61] self-written (*svahasta*), acknowledgement (*upagata*), mortgage (*ādhi*), purchase (*kraya*), local convention (*sthiti*), reconciliation (*saṃdhi*), and purification (*viśuddhi*).**

In this context, the precise number is not the point intended, because other documents such as the partition deed also fall in the common category. The maker of the Collection now defines the basic.

> **Basic is the name for what is written by the elder scribes of a town, selected by the parties involved, and praised as the best around. It**

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61 The precise meaning of *cīraka*, or *ciraka*, here is uncertain. It is mentioned at *Yājñavalkya* 2.22 as one of two major categories of writing, with *śāsana*, or decree, being the other. It may refer to a particular style of writing that was used for ordinary documents which employed "strokes" (*cīra*) or produced documents that resemble rags or tattered cloth, the usual denotation for *cīra*. I have opted for a neutral translation that tries to indicate the ordinary character discernible from the context.

should bear all the respective personal names of the two parties and of the witnesses, preceded by the names of their fathers, and others, as well as the signatures of the initiating party and the witnesses. It should be clear and understandable with all the characteristics required according to the traditional texts.

Praised, celebrated. Now, Kātyāyana defines the self-written.

[136] A document written by the recipient in his own hand, but lacking any witness, is known as a self-written document. The wise accept it as legal evidence.

Similarly, a document written by the donor but acknowledged by the recipient is known as an acknowledgement. Nārada describes the mortgage deed.

When a creditor receives property as a mortgage and lends his own money in return, the document made in this case is called a mortgage deed.

Prajāpati states a specific rule relating to a sub-mortgage.

If a creditor contracts a higher mortgage with that same money, he should draw up a document for the new mortgage and provide both the new and the original to the first mortgagor. [62]

Pitāmaha defines the purchase deed.

When particular property is purchased, what is executed for the sake of publicizing the purchase as approved by the buyer and known to the seller is known as a purchase deed.

Kātyāyana has defined the deed of local convention (*sthitipatra*).

A convention may belong to a group of knowers of the four Vedas, a town, a guild, a corporate group, or a group of citizens. A document intended to legally effect that convention should be known as a deed of local convention. [When an accusation is leveled before an assembly of dignitaries, the document giving a legal summary of what happened

62 Although not fully clear, the rule seems to apply to two scenarios: a mortgage to the same mortgagor in which the terms have been renegotiated or that has been refinanced; or a mortgage to a new mortgagor in which the terms are more advantageous to the creditor. In either case, both the mortgage deed with the original terms and the new mortgage deed should be given to the first mortgagor, presumably to avoid confusion or conflict around the continuing terms of the new mortgage.

> **is known as a document of reconciliation. When the reconciliation has been reached, the document is called a reconciliation.][63] When an accusation has been settled by persons performing a ritual penance, the document containing the witnesses to it is known to them as the document of purification.**

Bṛhaspati also declares the division of document-types.

> **Common documents are of seven types: partition, gift, sale, mortgage, local convention, slavery, debt, etc. Royal decrees are of three types.**

Here, again, the precise number is not the point, because he also illustrates additional documents beyond these. [137] He uses the word **etc.** for this very reason. Otherwise, because by simple counting the fact that seven are enumerated, the use of the word **etc.** would become pointless. By this fact, we know that the mention of a certain number of documents is for the purpose of limitation. As a result, there is no contradiction between rules that give variant numbers. The same author himself explains documents of partition, and so on.

> **When brothers who have willingly and mutually divided their inheritance make a document of the division, it is called a document of partition. The document made when land is gifted to a worthy recipient for as long as the moon and sun last and which is never to be divided or seized is known as a gift deed. When one buys a house, field, or something similar, the document made furnishing in writing the original payment price is called a purchase deed. When one gives moveable or immoveable property as collateral for a loan, the document one makes indicating whether the mortgage is custodial or usufructuary is called a mortgage deed. When a village or locality makes a mutual agreement for a purpose of the Law and it does not contravene the king, they call that a document of convention. What is written down in a desolate place when someone who lacks clothing or food says, "I shall perform work for you," is called a deed of servitude. When one receives money on loan at interest and either makes or has made a document with the terms for repayment, the wise call this a document of debt.**

Kātyāyana describes yet another common document.

> **When a dispute over a boundary has been legally resolved, a boundary deed is prescribed.**

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63 The bracketed verses do not appear in the printed edition of Srinivasacharya but are found in the *Dharmakośa* and complete the description of different documents.

[138] Yājñavalkya, also:

> **When one has paid off a debt, one should either tear up the original document or have another made attesting to the acquittance.**

2b. The Utility of Popular Documents

Marīci states the usefulness of documents.

> **When selling or mortgaging immoveable property, partitioning inheritance, and making a gift, one should both secure its legal validity and prevent any dispute about it by means of a document.**

Mortgaging, a mortgage. The first occurrence of the word **and** refers to the whole range of such transactions concluded, such as debts and so on. **Prevent any dispute** means that even at some later time, what happened with regard to the concluded transaction cannot be claimed to be otherwise. Thus, having considered the legal validity secured through preventing disputes about the immoveable property, and so forth, one should determine what to include and what to remove among the various elements to be written—the royal lineage, the year, and so on—because these serve a visible purpose.[64] As a result, it is not necessary to write the name of the creditor or debtor in a gift deed, or the like, nor even what is received, and so forth in a document of debt, or similar contract. Moreover, even in other types of document, what should actually be written down is a matter for modification (*ūhanīya*) because the whole point of documents is to accomplish a practical, worldly goal. Therefore, when a document, the terms of which have not yet been fulfilled, becomes incapable of use or is destroyed, another document must be drawn up. For this very reason, Yājñavalkya states:

> **When a document is located in a faraway place, has been poorly inscribed, destroyed, effaced, stolen, ripped, burnt, or cut, another should be created to replace it.**

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64 Following Indian hermeneutical principles, the *Dharmaśāstra* tradition draws a distinction between properly dharmic actions that have no visible purpose (*adṛṣṭārtha*) and essentially mundane acts that function to accomplish some visible purpose (*dṛṣṭārtha*) in the world itself. The author here classifies almost everything discussed in this section under the heading of "visible purpose." The point for Devaṇṇabhaṭṭa is clearly the freedom afforded by the possibility to rationally decide which elements should be required in a document, since those are not subject to the unalterable obligation imposed by actions done for unseen, transcendental purposes.

Located in a faraway place indicates a place from which it is utterly impossible to retrieve. **Poorly inscribed**[65] refers to handwriting that is unintelligible. **Ripped**, in two parts. **Cut** means torn apart. Kātyāyana, also:

> **A document that is damaged by filth, burnt, perforated, or misplaced, or erased through perspiration should be replaced by another.**

Misplaced, lost. **Erased**, effaced. As to what Nārada has stated:

> **When a document is located in a faraway place, ripped, poorly written, or stolen, [139] then, if the document still exists, one should allow a delay. If it no longer exists, then one should rely on the testimony of those who have seen it.**

This refers to a situation in which the debtor is prepared to repay the owed amount right away. In this case, there is no point in making another document. **Allow a delay** for the purpose of producing it: that is, fixing an allotment of time sufficient to produce the document. **The testimony of those who have seen it** is what can be made known by the witnesses to the transaction recorded in the document as it would be available in the document itself, meaning specifically what is supposed to be done about the repayment of the money. This, of course, should also be done, even when a document is impossible to tear up, so that witnesses may discharge their obligation to witness. And, a settlement deed should be received in order to publicize the repayment. One should only create a new document when there is money still to be repaid at a later time. For this reason, the same author states:

> **A new document should be made if a document is ripped, cut, stolen, effaced, burnt, or poorly written. This is the traditional rule for documents.**

Concluding Observations

The foregoing translation confirms several points of legal encounter between scholastic writing and unwritten regional laws in medieval India.[66] First, royal or

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65 *Durlekhya* can also, and perhaps more commonly, signify a forgery. See the same in the Nārada verses below. On forgery in Indian inscriptions, see, most recently, Salomon, "Fine Art of Forgery."

66 Very recently, Lubin, "Writing and the Recognition of Customary Law," has analyzed the function of writing in several new epigraphical sources in relation to the Sanskrit texts. His nuanced study of varying legal purposes for written materials is a model of the kind of history that is possible for India.

state documents differed functionally and conceptually from ordinary documents. Royal decrees, orders, instructions, and judicial verdicts depend on the imprimatur of the king or an official acting in his name. The only material guarantee that matters is his seal and signature. Such writing is a political act. By contrast, the requirement of signatures by witnesses, assessors, and judges in verdicts signals that signing is a legal act. Ordinary documents, too, require signatures and/or witnesses in a way that confirms their legality. On this point, we have two modes of practical writing distinguished through legal categories. When we find royal inscriptions that contain lists of signatures, therefore, we are obliged to rethink the scholastic categories and to what extent, whether, and how they may help us understand the inscriptions.[67]

A second prominent emphasis in the translation is the recurrence of requirements to consider and follow local or regional law. More than ten invocations of local law in the discussion indicate that the specified legal requirements for documents had to yield to local expectations. Even royal writings were required to use a local script as a way to further their acceptance. In the case of popular documents, local law is constantly called upon to fill in any gaps or clarify ambiguities in the textual laws. Signatures can and should be written in whatever script is known to the transacting parties. Scribes should employ ordinary local language in conveying the details of the contract. And, most importantly, the precise elements required to make a document legal depend more on local standards than on the several lists given in the texts. Here, the texts nevertheless give a reliable impression of the kinds of details we actually find in both royal and popular documents, but Devaṇṇabhaṭṭa gives the strong impression that what counted legally were the expectations of local people, what local law required. The scholastic legal texts acknowledge a lawmaking power outside of themselves, even as they attempt to codify norms that undoubtedly influenced local legal expectations.

Finally, in several places, the discussion highlights aspects of the material form of writing that were considered critical, even essential, to its legality. Simple requirements of legibility and continuity (that is, clear, legible handwriting and unbroken text) obviously serve to thwart forgery and fraudulent manipulation of both royal and ordinary documents. However, the discussion also suggests that more than textual integrity is at stake in the repeated insistence on clean, continuous writing. Writing is the material extension of the persons writing and transacting and witnessing. Its form, therefore, is bound up with their personalities and the transaction itself. A sloppy, broken, torn, or otherwise damaged or shoddy document portends problems, legally and morally. The text thus insists that great

67 Davis, "Law-Stuff: Content and Materiality."

care be taken in the preparation of documents. That care invests the writing with the seriousness and good intention of the parties involved, thus achieving a congruence of form and content.

With these points in mind, our interpretation of the huge corpus of documents from medieval India described above can begin from a contemporaneous set of legal categories and generalizations. The contextual meaning of such documents should start from what others at the time thought of them. Their significance does not end there, but the interplay of scholastic legal discourse and regional documentary practices demands that we consider both together.

In sum, contrary to the usual lamentations about lack of evidence (I myself have often cried loudest), sources for a legal history of medieval India do exist in great abundance, so great that they exceed the capacity of any individual to study them all. What they seem not to provide, however, is the legal history that we want to write, because there is very little familiar intrigue or entertaining conflict of the courtroom variety in a hundred thousand land tenure documents or in a statistical analysis of interest rates on mortgages or in ten thousand more endowments of perpetual lamps for temples. What we need—what I want—is more information about dispute resolution through legal channels. But, this information we will not find in any great measure. We are left, therefore, with the possibilities of writing a different type of legal history. One could approach the economic history of medieval India with law in mind by drawing conclusions from the aggregation of documentary data about taxation, interest rates, endowment sizes, and/or corporate and domestic production for a specific place and time.[68] More in line with my argument here, however, would be histories of law that draw upon both documents and correlative textual and epigraphic sources, especially sources like *dharmaśāstra* that are centrally concerned with law. Names, dates, and details are necessary for any history, and this alone requires us to work from historical legal documents first, but our understanding must be shaped by the legal encounter with the textual tradition of *dharmaśāstra* which, if nothing else, represents an Indian effort to systematize the rules and categories of law. The prestige and longevity of that tradition demands our attention. An abundance of ripe fruit awaits scholars willing explore the encounter of text and practice in the law of medieval India; we just need more laborers in the field to pick it.

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68 Excellent studies of some of these issues already exist, but none focuses on the question of law or legal encounter. The call of this essay asks for more work that addresses the history of law in India in a direct way. See, for example, Sinopoli, *Political Economy of Craft Production*; Chattopadhyaya, *Studying Early India*; Heitzman, *Gifts of Power*.

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Abstract In order to understand the legal use and significance of documents in medieval India, we need to start from the contemporaneous legal categories found in the Sanskrit scholastic corpus called *dharmaśāstra*. By comparing these categories with actual historical documents and inscriptions, we gain better insight into the encounter of pan-Indian legal discourse in Sanskrit and regional laws in vernacular languages. The points of congruence and transgression in this encounter will facilitate a nuanced history of documents and their use beyond unhelpfully broad categories of written and oral. A new translation of one major scholastic discussion of documents is presented as a way to raise issues relevant to any historical description of the legal encounter text and practice.

Keywords documents, India, Hindu law, *dharmaśāstra*, scholasticism.