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Disputed Transactions: Documents, Language, and Authority in Eighteenth-Century Marwar

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Abstract

Even though all state documents in Marwar in the second half of the eighteenth century were issued in Rajasthani, Persian-language documents continued to have an active legal life and were debated, discussed and judged through Rajasthani-language petitions and orders. A close reading of one such dispute highlights tensions over the authority of community versus documents, how new forms of state record-keeping affected the legal use of documents, and how the Rajput king's practice of customary law led both to the interpolation of shari'a principles into that law when applied to Muslims and to the restriction of the qazi's jurisdiction.

Keywords

civil disputes – language politics – jurisdiction – record-keeping – eighteenth-century India

Introduction¹

During the eighteenth century, Rajput kingdoms in the region of western India now called Rajasthan became increasingly independent from Mughal rule. As

1 The Romanisation of Arabic and Persian words in this article follows JESHO's modified IJMES guidance and a LOC-based common schema adopted for this special issue for Bengali, Gujarati, Hindi, Marathi, and Rajasthani words. To reconcile the two schemas, we have introduced minor variations to the LOC schema to ensure distinct diacritics. In many cases, the same word occurs in multiple languages but is pronounced differently; the Romanisation used follows the phonetic context. For the common schema, see pp. 483-5 of this issue.

the rajas and maharajas extended their authority and territory into areas once closely tied to the empire, they had to contend with the region's Mughal legacy, including administrative and judicial practices in place since the second half of the sixteenth century. One such aspect of Mughal governance was the use of Persian for official documents, including orders and decrees, tax records, news reports, correspondence, and legal judgments, a practice which was established by the emperor Akbar (d. 1605) in 1581.² Alongside these uses by imperial officials, Persian became widely used to record interpersonal transactions.³ Most of these uses of Persian fell away rapidly in the expanding eighteenth-century Rajput kingdoms in favour of various dialects of Rajasthani that the Rajputs were already using for internal affairs like village and district-level revenue assessments in the smaller areas they had controlled throughout Mughal rule, known as *waṭan jāgīrs* (home territories). However, even as the rulers of the Rajput kingdoms relied almost exclusively on local Rajasthani administrative idioms, they and their officials had to deal with Persian documents produced in earlier periods, especially regarding rights and property held by their subjects. The plurality of languages, document types, and administrative and judicial frameworks found within their recently expanded territories presented a challenge these rulers had to address in creative ways.⁴

Studying the afterlife of Persian documents in the eighteenth-century Rajput kingdoms of Rajasthan reveals the capacity of the administrative and judicial structures of these states to handle the bureaucratic plurality arising from the legacy of Mughal rule. This capacity is illustrated in an inheritance dispute between two Muslims in Nagaur in the 1770s. The protagonists of the inheritance dispute, Vasal and Pirkakhas (Persian: Pirkakhsh), staked competing claims to the estate of a woman who had died some years earlier. Their dispute hinged on whether or not the woman had adopted Pirkakhas's father and bequeathed property to him. But the issue they and the royal court in Jodhpur most thoroughly discussed was the legal validity of the document Pirkakhas presented as evidence of the adoption and bequest. Over the course of a year

2 M. Alam, "The Pursuit of Persian: Language in Mughal Politics." *Modern Asian Studies* 32/2 (1998): 325.

3 See for instance the documents reproduced in J.S. Grewal, *In the By-lanes of History: Some Persian Documents from a Punjab Town* (Simla: Indian Institute of Advanced Study, 1975) and the Cambay Documents at the National Archives of India (NAI) discussed in F. Hasan, *State and Locality in Mughal India: Power Relations in Western India, c. 1572-1730* (Cambridge: Cambridge University Press, 2004), ch. 5. See also the articles in this special collection, especially those by N. Chatterjee, G. Nadri, and S. Sheikh.

4 In addition to Mughal Persian practices and various Rajasthani dialects and documents, Marathi documents circulated as areas like Ajmer moved between Mughal, Maratha, and Rajput control. Sanskrit copper plates were also used to claim perquisites.

and a half, their debates and investigations considered the form of the contested document, practices of witnessing, and the customs of the pirzada community of Muslim religious scholars and caretakers of Sufi shrines to which both men belonged.⁵

The overlapping state and family archives that fortuitously exist regarding this dispute generate a multi-level perspective on document culture in eighteenth-century Rajasthan. The case is discussed in four entries in Rajasthani registers of orders issued by the Marwar court. These registers, known as *bahīs*, were part of the state's internal record-keeping. Presently, twelve series of *bahīs* form the bulk of the records for Marwar prior to the end of the nineteenth century in the Rajasthan State Archives, Bikaner. Two original documents regarding the dispute are preserved in the personal collection of the hereditary head (*dīwān*) of the Chishti Sufi shrine of Hamid al-Din Sufi Sawali in Nagaur. The first is a Rajasthani document corresponding to one of the register entries. The second document is a Persian gift deed (*hiba-nāma*) that is probably the document at the heart of the dispute.⁶

Nagaur and its relation to the kingdom of Marwar also exemplifies the layered history of administrative and legal practices encountered by other expanding Rajput states, such as Amber, and newly-created states like Alwar. Lying about 140 kilometres northeast of Jodhpur, Nagaur was an important fortified city and a centre of both Jain and Islamic religious and intellectual traditions. The city was the headquarters of *parganā* (district) Nagaur. The district was a *tankhwāh jāgīr* (revenue assignment) administered according to Mughal norms from the 1560s to the early eighteenth century, though for much of that time Nagaur's *jāgīrdars* (revenue assignees) were Rajput. The Jodhpur Rathor Rajputs aspired to control Nagaur since at least the mid-sixteenth century, but it was not until Vijai Singh claimed the Jodhpur throne in 1752 that Nagaur became consistently politically unified with Jodhpur as part of the Marwar kingdom and therefore that Marwar's administrative practices were consistently implemented in Nagaur.

A close reading of the documents related to Pirkahas and Vasal's dispute in Nagaur offers insights into eighteenth-century conceptions of documents,

5 Jodhpur Sanad Parwana Bahi (henceforth JSPB), Rajasthan State Archives, Bikaner, 18 f 13a vs 1834; JSPB 20 f 9b vs 1835; JSPB 22 f 5b vs 1836; JSPB 22 f 8a vs 1836.

6 Private Papers, Abdul Baqi Farooqi (ABF) 39 vs 1835; ABF 37 1170 AH. Further records regarding the Nagaur Pirzadas come from the private papers of Pir Ghulam Sarwar (GS). Together, these collections contain over 100 documents. For a partial listing of the documents see my PhD dissertation, "Intersected Communities: Urban Histories of Rajasthan, c. 1500-1800." (University of California, Berkeley, 2018): 149-161. Where I have provided document numbers for these collections, they refer to this listing.

rights and justice and the tensions in an evolving legal culture. In offering such a reading, I engage with three themes, namely law constituted through contestation, the intertwined power of documents and the state, and the language politics of governance, which emerge from a growing body of scholarship on legal practice and documentary cultures in the overlapping South Asian, Islamic and Persianate worlds.⁷ The approach to law as practice in this scholarship pays close attention to moments of translation between different forms of law, such as colonial and customary law, and highlights the way subjects and rulers negotiated changing structures of power through petitions.⁸ Nandita Sahai's ground-breaking scholarship has shown how the political relationship between state and subject in Marwar was activated by the petition process. Yet despite her nuanced analysis of the intertwined relationship of the state, caste panchayats and community tribunals in shaping law, custom and politics, the qazi is not included in this figuration.⁹ To understand the place of the qazi in Marwar's legal landscape, one must also consider the documents written or authorized by the qazi and their later interpretations. My approach here is informed by Matthew Hull's concept of 'graphic ideologies' as the ideas people hold about the meanings of certain types of writing and his attention to how documents form associations between different parties and objects.¹⁰ Interlaced with the question of how documents functioned is the question of language. Focusing on the use and interrelationship of Persian and Rajasthani in Nagaur for legal and transactional documents responds to Nile Green's call to look at the social, spatial and linguistic limits of Persian in functional, rather than aesthetic, domains.¹¹ My aim in picturing Rajasthan as

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- 7 Some of the most recent statements of these themes are A. Balachandran, R. Pant, and B. Raman, ed., *Iterations of Law: Legal Histories from India* (New Delhi: Oxford University Press, 2018); N. Chatterjee, *Negotiating Mughal Law: A Family of Landlords across Three Indian Empires* (Cambridge: Cambridge University Press, 2020); R. De and R. Travers, "Petitioning and Political Cultures in South Asia: Introduction." *Modern Asian Studies* 53/1 (January 2019): 1-20; J. Pickett and P. Sartori, "From the Archetypical Archive to Cultures of Documentation." *Journal of the Economic and Social History of the Orient* 62/5-6 (2019): 773-98; N. Green, ed., *The Persianate World* (Oakland: University of California Press: 2019).
- 8 A. Balachandran, R. Pant and B. Raman, "Introduction" in *Iterations of Law*, ed. A. Balachandran, R. Pant and B. Raman (New Delhi: Oxford University Press, 2018): 7; De and Travers, "Petitioning and Political Cultures in South Asia": 9.
- 9 N.P. Sahai, *Politics of Patronage and Protest: The State, Society, and Artisans in Early Modern Rajasthan* (New Delhi: Oxford University Press, 2006).
- 10 M.S. Hull, *Government of Paper: The Materiality of Bureaucracy in Urban Pakistan* (Berkeley: University of California Press, 2012): 5, 14, 21-6.
- 11 N. Green, "Introduction: The Frontiers of the Persianate World (ca. 800-1900)." In *The Persianate World: The Frontiers of a Eurasian Lingua Franca*, ed. N. Green (Oakland: University of California Press, 2019): 2, 8.

part of the Persianate world is not to deny the overwhelming predominance of Rajasthani-language records in the region's archives but rather to show that there may have been more Persian in use, including at the local level, than is initially apparent in those archives.

Even as the kingdom of Marwar and its administration in newly-acquired territories like Nagaur operated primarily in Rajasthani, legal disputes could involve a significant substratum of Persian documents not immediately visible in the archive that had to be rendered legible in Rajasthani legal forums through the translation of words and concepts. Pirbakhas, Vasal, and state officials debated what made a document efficacious, thereby exposing rifts between formal interpretations of elements of the document and the primacy of community assent. Comparing the original Rajasthani document with its copy in the register reveals document features lost in the processes of copying, including Persian elements like seals. The use of registers expanded alongside increasing state documentation of property transactions and presented new possibilities of verifying documents, thereby raising the status of documents as evidence in legal proceedings as Nandita Sahai has shown.¹² However, while these Rajasthani registers refer to Persian documents presented as evidence, they do not reproduce these documents; to understand the legal forms and ideas underlying these references, we have to turn to the Persian document, in this case, the *hiba-nāma*.

Vasal and Pirkakhas's dispute also illustrates the connections between the declining role of the qazi in legal proceedings and the declining use of Persian in the eighteenth century. This change intensified the associations of Persian with Islam in Rajasthan because it meant that fewer non-Muslims sought out the qazis' services (and many Muslims also sought judgments elsewhere) at the same time that qazis became the main purveyor of Persian legal documents. In the sixteenth century, Persian became the administrative language in the Mughal Empire in part because of its relatively neutral religious connotations, unlike other cosmopolitan but also scriptural languages such as Arabic and Sanskrit.¹³ Under the Mughals, Persian was widely adopted in India and was professionally mastered by Hindus and Muslims from a variety of backgrounds who worked as scribes, scholars and bureaucrats.¹⁴ However, aside from

12 N.P. Sahai, "To Mount or Not to Mount?: Court Records and Law Making in Early Modern Rajasthan." In *Iterations of Law: Legal Histories from India*, ed. A. Balachandran, R. Pant, and B. Raman (New Delhi: Oxford University Press, 2018): 175-6, 181.

13 M. Alam, "The Pursuit of Persian: Language in Mughal Politics": 326, 329, 332, 348. Alam's point contradicts Hodgson's notion of the Persianate as also explicitly Islamicate.

14 R. Kinra, *Writing Self, Writing Empire: Chandar Bhan Brahman and the Cultural World of the Indo-Persian State Secretary* (Oakland: University of California Press, 2015): 5, 23-5;

diplomacy, from the mid-eighteenth century the legal and bureaucratic use of Persian persisted in Rajasthan primarily within documents issued or authorized by qazis and the interpersonal records of literate Muslims. If during the height of the empire members of all religious communities across North India, including in Nagaur, approached the qazi to register documents and resolve disputed transactions, in eighteenth-century Nagaur this was no longer the case.¹⁵ Disputes over property, including those between Muslims, were now typically resolved in panchayats and other community tribunals summoned and overseen by the state. However, qazis were integrated in a limited form into Marwar's system of community-based customary law as a source that might be consulted in cases involving Muslim communities. It was perhaps because of the reduced role of qazis that the maharaja's officials found themselves investigating and adjudicating disputes over Persian documents.

1 Language and Political Transition

How, where and when Persian was used in Rajasthan was contingent on social and political factors. Different uses of Persian, including literary, religious, administrative, and epistolary, had discrete trajectories; the focus here is on administrative and legal uses. The adoption of Persian for administration was more limited in Rajasthan than in many parts of the Mughal empire. Its use fluctuated based on the administrative organization of the province, the extent of imperial power, and the connection of local chiefs and rulers to the empire. In the eighteenth century, as Rajput kings expanded their territories and asserted wider power, Persian lost its administrative toehold in much of the region. The changing place of Persian in the city of Nagaur, which went from being the chief city of a Mughal tankhwāh jāgīr, albeit one with close Rajput ties, to a part of the expanding Marwar kingdom by the middle of the eighteenth century, is part of a larger story of language and politics in Rajasthan tied to the region's complicated relationship with the Mughal Empire.

The use of Persian for administration in early modern Rajasthan was shaped by the political organization of the region under the Mughals. Ajmer *ṣūba* (province) was one of the core provinces of the Mughal Empire from the emperor Akbar's conquest of the region in the 1560s and 70s. After Akbar's conquest, the province was divided into *sarkārs* (divisions) and *parganās* (districts) according

P. Dhavan, "Persian Scholarly Networks in Mughal Punjab." In *The Persianate World*, ed. N. Green (Oakland: University of California Press, 2019): 159-71.

¹⁵ Hasan, *State and Locality in Mughal India*: 72-5.

to Mughal practice. Some parganās were retained as *khālīṣa* (crownland), while the rest were assigned wholly or partially as tankhwāh jāgīrs (transferable revenue grants against salary), and waṭan jāgīrs (hereditary grants of home territory). Detailed records of the parganās in the province are rarely available, but the appointment of waṭan jāgīrs is fairly well known because the grantees were often also prominent nobles in the Mughal court. Out of a total of 197 to 238 parganās in the province,¹⁶ 20 parganās were regularly assigned in waṭan jāgīrs to Rajputs, and they held up to a further 29 parganās in *zamīndārī* (revenue collection rights that were frequently a source of entrenched local power). Occasionally, tankhwāh jāgīrs were assigned repeatedly across generations to the same family; these could become de facto waṭan jāgīrs.¹⁷ In tankhwāh jāgīrs, the *jāgīrdar* was expected to uphold the administrative practices of the empire. While evidence for day-to-day administration in these areas is scarce, the records of a Kayasth scribal family serving as *qānūngos* (tax recordkeepers) in Nagaur and news reports from Ajmer between 1678-80 bear this out.¹⁸ However, in waṭan jāgīrs, the grantees could use their own system of administration.¹⁹ This means Mughal bureaucracy, including the use of Persian, may not have been implemented in up to one third of the *ṣūba*.

Even though they did not use Persian to administer their waṭan jāgīrs, many of the Rajput chiefs and rulers participated in the Persianate sphere through their close ties to the empire. Marwar's rulers were no exception. The Mughal emperor Akbar established his authority in Marwar in the 1560s and 1570s through conquest and his intervention in a succession dispute over the Jodhpur throne. This began a period of close ties between the Rajput kingdom and the empire that lasted until the death of Marwar maharaja Jaswant Singh in 1678 and was intermittently resumed thereafter.²⁰ Women from the Marwar royal family married into the imperial family; the emperor Shah Jahan's mother Jagat Gosain was the daughter of Marwar's Raja Udai Singh.²¹ The Marwar rajas and maharajas held high-ranking posts (*manṣabs*) within the Mughal nobility

16 The total number of parganās in the province increased between the sixteenth and the eighteenth century.

17 My estimations are based on the data collated in S. Budhwar, "The Mughal Administration of the Suba of Ajmer." (PhD dissertation, Aligarh Muslim University, 1977): 103-14.

18 *Waqā'ī Sarkar Rantanbhor wa Ajmer*. Aligarh Transcript, Centre of Advanced Study in History Research Library, Aligarh Muslim University; Hardayal Chand Mathur collection (HCM), Rajasthan State Archives, Bikaner.

19 Budhwar, "The Mughal Administration of the Suba of Ajmer": 81.

20 G.D. Sharma, *Rajput Polity: A Study of Politics and Administration of the State of Marwar, 1638-1749* (New Delhi: Manohar, 1977): 15-6.

21 W.M. Thackston, "Introduction." In *The Jahangirnāma: Memoirs of Jahangir, Emperor of India*, trans. W.M. Thackston (New York: Oxford University Press, 1999): x.

and served in prominent administrative posts and military campaigns. They received imperial documents in Persian and must have themselves been able to read Persian or employed those who could read, write and translate it.²² In their military, administrative and revenue (jāgīr) assignments in places like Qandahar and Gujarat, they also supervised Persian-language administration and communication.²³ Such familial and political ties meant that the ruling family of Marwar was deeply familiar with Mughal bureaucracy.

But the Marwar rulers adopted Persianate elements more readily than the Persian language in their home territory. Persian was not used much, if at all, in the administration of the Marwar waṭan jāgīr of Jodhpur and the neighbouring districts often assigned in jāgīr to the Marwar ruling family, including Merta, Sojat and Jalor. The writings of Munhata Nainsi, chief minister to Maharaja Jaswant Singh in the mid-seventeenth century, demonstrate both the deeply Persianate nature of Marwar's administration and the use of the Marwari dialect of Rajasthani as the region's administrative language. Nainsi produced two major works in Rajasthani: a *khyāt*, or genealogy cum historical chronicle, of the major Rajput lineages of Rajasthan, and a text called *Marwar ra Pargana ri Vigat* or 'account of the districts of Marwar,' which includes both historical anecdotes and extensive statistical details regarding villages, population, crops and revenue. His *Vigat* was influenced by the statistical surveys of provinces found in Abul Fazl's *Ain-i Akbari*, which was composed in Persian about fifty years earlier.²⁴ In both texts, Nainsi included descriptions of the actions of the emperors and various nobles and accounts of the manṣabs granted to various Rajputs that showed his familiarity with the Mughal court.²⁵ Likewise, his descriptions of district revenue show the application of Mughal administrative categories and the adoption of Persian terms; the use of these categories was found elsewhere in Rajasthan and continued into the eighteenth century.²⁶

22 See for example the Persian documents sent to Marwar rulers in M. Khadgawat, ed., *Farsi Farmanom ke Prakash meṃ Mugalkalin Bharat evaṃ Rajput Shasak*, vol. 4, trans. Shujaiddinkhan Nakshbandi (Bikaner: Rajasthan State Archives, 2018): 23-110.

23 Sharma, *Rajput Polity*: 38-40, 49-52; B.L. Bhadani, *Peasants, Artisans and Entrepreneurs: Economy of Marwar in the Seventeenth Century* (Jaipur: Rawat Publications, 1999): 2-3.

24 M. Nainsi, *Marwar ra Pargana ri Vigat*, ed. Narayansinh Bhati (Jodhpur: Rajasthan Oriental Research Institute, 1968); N. Peabody, "Cents, Sense, Census: Human Inventories in Late Precolonial and Early Colonial India." *Comparative Studies in Society and History* 43/4 (2001): 824.

25 M. Nainsi, *Munhata Nainsi Viracita Munhata Nainsi ri Khyata*, ed. Badariprasad Sakariya, vol. 1 (Jodhpur: Rajasthan Oriental Research Institute, 1960): 48-9 and passim; Nainsi, *Marwar ra Pargana ri Vigat* vol 1: 77, 107, passim.

26 Nainsi, *Marwar ra Pargana ri Vigat*, vol 1: 151-170; D. Singh, *The State, Landlords, and Peasants: Rajasthan in the 18th Century* (New Delhi: Manohar Publications, 1990): 2-3.

Extensive archival records from Rajasthan's Rajput kingdoms, including Marwar, show the near exclusive use of Rajasthani to record internal affairs such as revenue collection, royal household accounts, and charitable accounts.²⁷

In the eighteenth century, as Mughal power in Rajasthan declined and Rajput states expanded their territory and their political independence, Rajasthani gained even more widespread use as the language of governance. For Rajput states to move away from Persian, especially in places with former close ties to the Mughals, was to signal that Mughal rule was no longer effective in those places. Documents that were previously issued in Persian or in bilingual Persian and Rajasthani versions were now issued in Rajasthani alone. For instance, the rulers' grants to support the custodians, rituals, and temple installation of the deity Govinddevji were issued solely in Rajasthani after the 1720s.²⁸ Eighteenth-century Rajput rulers crafted innovative images of themselves as kings. They embraced Vaishnavism and neo-Vedic rituals and gave these religious traditions a key place in their political expression and rule.²⁹ However, unlike the Marathas, they did not undertake any formal projects to generate new administrative forms or replace borrowed Persian words with Rajasthani equivalents or Sanskrit-derived terms.³⁰ Rather, the Rajput states continued to use extant Rajasthani document forms and administrative practices, many of which showed the influence of Mughal Persian chancellery practice. Furthermore, even as Rajasthani documents proliferated, the Rajput states continued to deal with Persian documents, particularly in newly-acquired areas. When Marwar's territory expanded to include Nagaur, which had a long history of Persian-language governance, the kingdom's administrators had to assess and respond to Persian documents held by Nagaur's residents. If, on the surface, it appeared that Rajasthani became the sole language of eighteenth-century Rajput governance, a significant substratum of Persian remained in place.

27 For an overview of the relative breakdown of Rajasthani and Persian records see *Guide to the Records in the Rajasthan State Archives* (Bikaner: Rajasthan State Archives, 1991).

28 M. Horstmann, *In Favour of Govinddevji: Historical Documents Relating to a Deity of Vrindaban and Eastern Rajasthan* (New Delhi: Indira Gandhi National Centre for the Arts, 1999): 42.

29 D. Cherian, "Fall from Grace? Caste, Bhakti and Politics in Late Eighteenth-Century Marwar." In *Bhakti and Power*, ed. J.S. Hawley, C.L. Novetzke and S. Sharma (Seattle: University of Washington Press, 2019): 184; V.S. Bhatnagar, *Life and Times of Sawai Jai Singh 1688-1743* (Delhi: Impex India, 1974): 264, 339-40.

30 S. Guha, "Bad Language and Good Language: Lexical Awareness in the Cultural Politics of Peninsular India, ca. 1300-1800." In *Forms of Knowledge in Early Modern Asia*, ed. S. Pollock (Durham, N.C.: Duke University Press, 2011): 60-2.

2 A Documented Dispute

The judicial process in Marwar included close attention to community testimony and documentary evidence, all the while generating new documents. The dispute between Vasal and Pirkakhas, in which Vasal sought a share in an inheritance, concerned family property transactions and adoption. However, Vasal's petition primarily challenged the validity of the deed and the *sanaad* (document issued by the state) that Pirkakhas used to prove his inheritance rights. In fact, Vasal and Pirkakhas even disagreed on the precise nature of the deed, with Vasal terming it a deed of adoption (*kholai līyāṃ ro likhat*) and Pirkakhas describing it as naming an heir to property (*māl milak ro īvāras*), in other words, a bequest deed.³¹ Therefore, the dispute as reported, summarized and adjudicated by the Maharaja's court and officials focused on the legal status of documents and their signs of validity and veracity.

Alongside the documents themselves, community affiliation and standing were factors in the dispute. Both Vasal and Pirkakhas belonged to Nagaur's pizada community and claimed descent from the thirteenth-century Chishti Sufi Khwaja Hamid al-Din Sultan al-Tarikin (d. 1274), commonly called Tarkin-ji in Rajasthan, whose shrine is on the north-eastern outskirts of Nagaur. Pizadas tended to Sufi shrines, performing religious rituals and attending to pilgrims. For their service they received charitable grants from rulers, including the Jodhpur Rathors, and shares of the donations made to the shrine. Pizadas' rights to serve in the shrine and to receive grants and donations were based both on being a descendant of the saint and on the direct inheritance of shares in the revenue from immediate kin along normal patterns of Islamic inheritance. Nagaur has several Sufi shrines, each of which has its own pizada subcommunity. Pirkakhas came from an influential family in the Tarkin-ji pizada community. His grandfather Imamudin (Persian: Imam al-Din) received a charitable grant from Maharaja Indar Singh in 1725.³² His father Alamadin (Persian: 'Alam al-din) witnessed *hiba-nāmas* for other pizadas in 1747 and 1772, while Pirkakhas witnessed pizada documents in 1779 and 1793 and sold property he co-owned with his brother for 90 rupees in 1791.³³ Due to a lack of evidence, it is difficult to assess Vasal's social standing, though the fact that he was not a witness on any of these documents suggests he and Pirkakhas were not close social peers outside of the dispute.

31 JSPB 22 f 8a vs 1836; JSPB 20 f 9b vs 1835 and appendix one below. The document they were discussing unusually references both adoption and a bequest. See section 4 below.

32 ABF 33 vs 1782.

33 GS 20 1160 AH; GS 22 1186 AH; GS 24 1193 AH/VS 1779; GS 1205 AH; GS 1207 AH.

The records of the dispute simply summarize the petitions and testimony and do not always elaborate on the rationale of the court's response, but they nevertheless give insight into legal attitudes in the eighteenth century. Petitioning brought the royal court, state administrators in Nagaur, and leaders of the pirezada community together in search of a resolution. The royal court recorded its response to Pirkakhas and Vasal's dispute in four documents issued between the May of 1778 and December of 1779.³⁴ In the first document, the dispute is described as a standing matter which suggests that it had already come before community elders and local administrators before it came to the attention of the Maharaja's court.³⁵ Each document began with a statement of how the matter came before the state; these statements reveal that the documents were produced in response to reports from local officials and to petitions from Pirkakhas and Vasal. The first document consisted of instructions from the Maharaja's court to the officials of Nagaur's *kachairi* (district revenue and administration headquarters) based on a report of the quarrel from those same officials. Several months later, Pirkakhas petitioned the state in person. In response the Maharaja's court issued the second document, a sanad ruling in his favour, to both the *kachairi* officials and to Pirkakhas. The state's third document regarding the matter was prompted by Vasal's counter-petition to the Maharaja's court. The document informed the *kachairi* officials that the earlier sanad had not resolved the matter, as evidenced by Vasal's counter-petition, and instructed the officials on how to resolve the dispute locally. The fourth and final document was, like the first, a response to a report from local officials and issued further instructions to the officials on how to end the dispute. The different backstories behind each of the documents reveals multiple routes to state justice, the close communication of local officials with the king's court, and the state's interest in resolving disputes.

Although these Rajasthani documents did not use technical legal terms to identify the parties to the dispute, contextual detail enables us to identify Vasal as the plaintiff and Pirkakhas as the defendant. Vasal claimed a share in the property of a deceased man, Kamaladin (Persian: Kamal al-Din) and challenged Pirkakhas's right to the same. Vasal's arguments throughout the case sought to undermine the validity of the documents that Pirkakhas used to prove his rights. Vasal contested the legitimacy of Pirkakhas's father Alamadin's status as Kamaladin's adopted heir. He alleged that Alamadin had secretly created a forged deed (*likhat*) in order to secure the inheritance. Vasal's arguments

34 JSPB 18 f 13a vs 1834 (13 May 1778); JSPB 20 f 9b vs 1835 (7 December 1778); JSPB 22 f 5b vs 1836 (26 August 1779); JSPB 22 f 8a vs 1836 (20 December 1779).

35 Sahai, *Politics of Patronage and Protest*: 34, 108-9.

against the document's validity included that neither he, nor his brother, nor his father had witnessed the document, suggesting that it was not authorized by the community. Furthermore, Vasal challenged the validity of a sanad regarding the matter issued by the Marwar state around 1760 (Vikram Samvat, henceforth vs, 1817) by claiming that Pirkakhas had the document issued without the presence of other community members.³⁶ Vasal's arguments pinned the authenticity and authority of documents to witnesses. His claim drew on the conception that a document was verified and became legally valid by the presence of community members at its moment of generation and their attestation that the contents were accurate. Witnesses represented the consensus of the community and it was important who witnessed and how many witnessed. Witnessing also implied the ability to summon witnesses later to verify the contents of the document. Thus, a document's authority was constituted by the presence and memory of a community.³⁷

In contrast, Pirkakhas defended his claim through reference to the authority of the documents in themselves as written proof of the relationship between Alamadin and the widow and her intent to leave property to Alamadin. He presented several initial arguments for the credibility of Alamadin's document in vs 1835: first, that the widow commissioned the writing of the deed specifying that Alamadin was her heir and gave it to Alamadin in person; second, that this document bore the endorsement (*dasakhatā*) of one Hayattula (Hayat Allah);³⁸ and third, that he had secured a *sanad* regarding the matter from the Marwar state that proved his rights.³⁹ In his later testimony, he rebutted Vasal's argument that the widow's deed was a forgery by stating that the document was not only witnessed by the *pañch*, or council of elders, but also bore the seal of the qazi.⁴⁰ His implication here was that the qazi would only seal true documents. Rather than appealing solely to community endorsement, he portrayed the document as a sign of the widow's intent, and as a form endorsed and reinscribed by authorities including the qazi and the state. He also argued that because Vasal's father had not disputed the inheritance, Vasal had no right to

36 JSPB 18 f 13a vs 1834; JSPB 20 f 9b vs 1835; JSPB 22 f 8a vs 1836.

37 On the social nature of documents and witnessing, see F. Hasan, "Property and Social Relations in Mughal India: Litigations and Disputes at the Qazi's Court in Urban Localities, 17th-18th Centuries." *Journal of the Economic and Social History of the Orient* 61/5-6 (2018): 862-70.

38 Pirkakhas' arguments as reported did not specify the significance of Hayat Allah's endorsement, but Hayat Allah probably was a witness. See also section 3 of this paper.

39 JSPB 20 f 9b vs 1835.

40 JSPB 22 f 8a vs 1836. In Rajasthani usage *pañch* can refer to a member of a panchayat or to the panchayat as a whole.

quarrel. Interestingly, it was this argument, rather than his documents, that swayed the Marwar court in his favour in vs 1835.⁴¹

Logics of the authority of community and of documents also intersected in the royal court's orders. The state recognized the importance of community in its investigation. Initially, Shri Hajur (literally 'eminent presence', this term was used for both the ruler and his court more generally) instructed the *kachairī* officials to assemble four *pirzadas* from among the descendants of Tarkin-ji and four from the descendants of Jatil-ji (a likely misspelling of Jahir-ji/Zahir-ji, a Suhrawardi Sufi) to resolve the dispute.⁴² The Jahir-ji *pirzadas* and the Tarkin-ji *pirzadas* often collaborated; they made joint appeals for the reinstatement of grants and were jointly summoned as a *pañch* on several other occasions.⁴³ This may reflect the overlap between Chishti and Suhrawardi affiliations at the time. But after Pirkakhas appealed by presenting the evidence of his documents and arguing that Vasal's father had never disputed the inheritance, the state concluded that Pirkakhas was in the right and Vasal should stop quarrelling. However, that order did not resolve the dispute. When Vasal petitioned again, Shri Hajur turned back to community as a site of resolution and instructed officials to gather four *pirzada* witnesses in a *pañch* to resolve the matter. If the disputants did not obey the ruling of the *pañch*, the officials would punish them. When the dispute still persisted, the state ordered officials to gather reliable men of the *nyāt* or subcaste to give witness.⁴⁴ The state turned to community to resolve matters when the evidence of documents proved to be insufficient or inconclusive to settle them.⁴⁵ The persistence of the dispute after the second order shows that the state was unable to enforce the authority of documents in these types of legal matters without the broader buy-in of the affected community. Community authority, especially as embodied in the *pañch*, was important both in the authorization of a document at its creation, through witnessing, and in arbitrating the meaning and validity of extant documents in later disputes.⁴⁶ The qazi seals and

41 JSPB 20 f 9b vs 1835.

42 I have not found any other reference to Jatil-ji but references to the *pirzadas* of Jahir-ji are found in both the JSPB and the ABF documents. Jahir-ji likely refers to the thirteenth-century Suhrawardi Sufi Ahmad Zahir al-Din buried in Nagaur.

43 ABF Baisakh Sud 13 vs 1774; ABF vs 1782; JSPB 12 f 59a vs; JSPB 20 f 1b vs 1835.

44 The roles of the *pañch* and *nyāt* in the legal culture of Marwar are discussed further in section 5 of this article. 18 f 13a vs 1834; JSPB 20 f 9b vs 1835; JSPB 22 f 5b vs 1836; JSPB 22 f 8a vs 1836.

45 Sahai, *Politics of Patronage and Protest*: 110. She argues that the state's interest in social stability also led the state to rely on the *panchayat* for dispute resolution.

46 The *pirzadas'* Persian documents sometimes explicitly refer to the *pañch* as an authorizing body: 'I have had these words written in the manner of a *hiba-nāma* in the presence of

witness signatures of a previous generation only worked as signs of authority if the current generation of community elders recognized them as such.

3 The Disputed Persian Document

Although Vasal and Pirkakhas's dispute hinged on the status of a single document and its later reauthorization in a sanad, the original document was not copied in the state registers. However, I have identified a Persian gift deed (*hiba-nāma*) in the papers of the current *diwān* of the Sultan al-Tarikin shrine that is almost certainly the document at the heart of Vasal and Pirkakhas's quarrel. This suggests that Persian documents could be discussed in legal disputes conducted in Rajasthani even if the language of the documents in question is unmentioned. In several other cases from Nagaur in the 1770s, Persian documents are explicitly mentioned in the Rajasthani records.⁴⁷ Taken together, these instances situate the Rajasthani documents and registers of the second half of the eighteenth century in conversation with the Persianate world through their incorporation, reauthorization, and adjudication of Persian documents.

The *hiba-nāma* in question presents the first-person testimonial (*iqrār*) of 'Inayat Bibi, the wife of a shaykh descended from Shaykh Nizam.⁴⁸ She established that after the death of her husband, she inherited a portion of the donations (*nīyāz*) made at the Sultan al-Tarikin shrine and the revenue of the village Ghunsali, a haveli, and a cowshed (*chāhbarī*). 'Inayat Bibi attested that on his deathbed, her husband instructed her to grant these possessions to whomever cared for her after his death. She stated that Shaykh 'Alam al-Din son of Imam al-Din (e.g. Alamadin) looked after her and would arrange her burial after her death. Therefore, she declared that Alamadin was her adopted son (*pisar-khwānda-i khūd muqarrar kardā*) and a rightful heir to her property. The document concludes with exhortations that her descendants should not

all of the pañchs of the pīrzadas' (*īn chand kalama baṭariq-i hiba nāma baḥuzūr-i tamām panchān-i pīrzādagān navishta dada-am*). GS 22 1186 AH/VS 1829.

47 Leatherworkers had a Persian document (*phārasī kāgad*) regarding their right to wash skins in a pond, JSPB 16 f 31a vs 1833; regarding a mortgage, a merchant argued that a mochi's Persian document (*khat ī pārasī ro*) was fake, JSPB 18 f 9b, 19a vs 1834, JSPB 22 f 41b-42a vs 1836; a Persian document (*khat phārasī*) was evidence in a mortgage dispute between a chapara and a dhobi, JSPB 20 f 47b-48a vs 1835.

48 Shaykh Nizam possibly refers to the sixteenth-century *diwān*, or head, of the shrine, who received a large charitable grant from the emperor Akbar. If so, it implies that 'Inayat Bibi's husband was a high-status pīrzada.

quarrel or make claims from Alamadin and with her attestation to the accuracy of the contents of the document.⁴⁹

Several factors prevent complete certainty that this *hiba-nāma* was the document Pirkakhas and Vasal quarrelled over. An ink smudge obscures the name of 'Inayat Bibi's husband completely, while the Rajasthani documents never mention the woman's name, referring to her only as Kamaladin's wife. There is also a minor discrepancy in dates. The *hiba-nāma* is dated 2 Muharram 1170 AH (27 September 1756), which corresponds to 3-4 shukla of Asoj (September-October) in vs 1813. This is about 2.5 months into vs 1813 as calculated in Marwar at the time, rather than vs 1812 as claimed in the later petitions.⁵⁰ However, the Persian document does not include the vs date, nor is it clear what date-conversion methods the complainants would have used and what the accuracy of these would have been. Despite these discrepancies, internal and contextual evidence provides good reason to believe that this *hiba-nāma* is the document over which Pirkakhas and Vasal quarrelled. First, there is narrative consistency. The *hiba-nāma* describes a series of events that matches the testimony given in the later dispute. Secondly, the document contains the seal of Hayat Allah, as Pirkakhas testified.⁵¹ Lastly, in addition to this *hiba-nāma*, the *dīwān*'s papers contain two Rajasthani documents relating to pirezada Alamadin. One of these is the original sanad from vs 1835 (1778) regarding the dispute of Pirkakhas and Vasal and the other refers to a petition Alamadin made regarding the death anniversary (*'urs*) gathering at the shrine in vs 1824 (1767).⁵² Given this, it is reasonable to presume that this document lay at the heart of the dispute.

The *hiba-nāma* established its authority through multiple signs and statements that derived their power from the norms of Islamic law as expressed in Persian documents, including attestations of witnesses and authorities, the use of stock phrases, references to speech acts, and injunctions against dispute. Typical for interpersonal agreements and declarations, the document has several types of attestations. One is a typical witness statement (*guwāh shud*) of one Shaykh Hamid al-Din ibn Shaykh Ghulam 'Ali Suhrawardi. There are also three seal impressions which are partially legible. The largest is that

49 ABF 37 1170 AH.

50 For more on this dating system, see R.D. Saran and N.P. Ziegler, *The Mertiyo Rathors of Merto, Rajasthan: Select Translations Bearing on the History of a Rajput Family, 1462-1660* (Ann Arbor: University of Michigan, Centers for South and Southeast Asian Studies, 2001): 28.

51 JSPB 20 f 9b vs 1835.

52 This document also has a corresponding copy in the official bahīs. ABF 38; JSPB 6 f 46a vs 1824.

of Muhammad Nadar, issued in the year 1166 AH, four years before the document was written, and located at the top of the document. This is likely the qazi's seal. Although the word 'qazi' cannot be definitively read on it, the layout and the invocation match several other qazi seals found on documents from Nagaur.⁵³ A qazi's seal is an expected feature since people frequently registered Persian documents with the qazi across India in the seventeenth and eighteenth centuries and qazi seals are found regularly on other hiba-nāmas.⁵⁴ The other two seals, placed on the right margin where witness seals and signatures are typically found, each name a shaykh, one of which is Hayat Allah, while the second name is illegible. The main text of the hiba-nāma follows the conventions of Islamic documents broadly, and hiba-nāmas specifically, such as using stock phrases indicating that 'Inayat Bibi was sound of mind and body and not under pressure or duress. The last line of the text asserts that the gift is correct and permissible (*ṣahīhā jā'iz*), and a marginal note states 'Inayat Bibi's agreement to all that was written down. The document also invokes orality as a source of authority, from its framing as 'Inayat Bibi's direct testimony (*iqrār mī kunam*) to her narrative invoking her ability to stipulate an heir through the spoken instructions of her husband on his deathbed. Such orality was significant because of the preference for speech as legitimate testimony and evidence in Islamic legal practices.⁵⁵ Lastly, the document anticipates its future role as evidence when it states that no one other than Alamadin has claims to the gifted property and that none of 'Inayat Bibi's relatives should quarrel with him or make a claim against him. This sort of injunction was a common feature of Persian documents.

Despite its claims to authority, 'Inayat Bibi's hiba-nāma was vulnerable to legal challenge. In comparison to several other hiba-nāmas produced in Nagaur for the pirzada community around the same period, 'Inayat Bibi's document has few signs of authority. Firstly, the document had a small number of witnesses. Contemporary hiba-nāmas from Nagaur had eight or even twenty witness testimonies, far more than the three attestations on 'Inayat Bibi's document.⁵⁶ This meant that few people could testify if the document's authenticity was challenged. The low number of attestations may show a lack of community

53 Bare Pir Sahib Dargah, copy of a *parwānā* from 982 AH; GS 1202 AH.

54 Grewal, *In the By-lanes of History*: 41, 43 and see the seals on 25 of the 36 documents, including the hiba-nāmas reproduced as document XXIV and XXVI; Hasan, *State and Locality in Mughal India*: 100; Acquired Documents, NAI, 2733/29 1101 AH.

55 For a comparative perspective, see B.A. Ergene, "Evidence in Ottoman Courts: Oral and Written Documentation in Early-Modern Courts of Islamic Law." *Journal of the American Oriental Society* 124/3 (September 2004): 473-4.

56 GS 1160 AH and 1186 AH.

endorsement of the text; however, this may alternatively be because the document was written in September 1756, only ten months after the end of the year-long Maratha siege of Nagaur that had caused many people to flee the city.⁵⁷

Secondly, there was 'Inayat Bibi's status as a widow and the nature of her relationship to Alamadin. Women typically only gained full control of immovable property if all other coparceners predeceased them.⁵⁸ By her own account, 'Inayat Bibi inherited her property from her husband and validated her hiba-nāma in terms of carrying out his deathbed instructions. Yet it is unclear whether this moment of instruction had witnesses, and she had the hiba-nāma written about 20 years after his death. Women used hiba-nāmas to ensure they were looked after following their husband's death; widows often explicitly stated the gift was in exchange for the service (*khidmat*) of the recipient.⁵⁹ Hiba-nāmas were not supposed to be used to alter the lines of inheritance according to the principles outlined in the *Fatawa-i 'Alamgiri*, the most well-known Mughal jurisprudential work.⁶⁰ But 'Inayat Bibi's deed did just that, bypassing other heirs and making the rather unusual designation of Alamadin as her adoptive son. Adoption of an adult heir was common practice among Hindu communities in Nagaur; it is less clear whether this happened regularly among Muslims, but it would have contravened Hanafi jurisprudential norms.⁶¹ This left 'Inayat Bibi's recognition of Alamadin as her adoptive son, and therefore her rightful heir, open to challenge by her extended family despite the explicit instructions in the gift deed that none should challenge his rights. Indeed, Vasal and Pirkakhas contested the status of her relationship to Alamadin. Vasal claimed that no one adopted Alamadin nor bestowed a fine cloth on him; Pirkakhas insisted the widow did both.⁶²

The authority and vulnerabilities of the disputed Persian document as read in the context of other contemporary documents and practices show the world of knowledge in which it was produced and read. The hiba-nāma was a well-known genre of Islamic legal transactional document. The version written

57 G.H. Ojha, *Jodhpur Rajya ka Itihas* (Jodhpur: Maharaja Mansingh Pustak Prakash, 2010): 2: 142-7; B.N. Reu, *Marwar ka Itihas* (Jodhpur: Maharaja Mansingh Pustak Prakash, 1999): 1: 371-5.

58 S. Bano, "Women and Property in Mughal India." *Proceedings of the Indian History Congress* 68 (2007): 409.

59 NAI-2733/29 1101 AH; GS 1220 AH/VS 1862.

60 *Fatawa Hindiya almaruf bah Fatawa 'Alamgiri*, trans. Sayyid Amir 'Ali (Lahore: Maktuba Rehmania, nd.): 10, 241-2.

61 A.R. Naqvi, "Adoption in Muslim Law." *Islamic Studies* 19/4: 288-92.

62 JSPB 22 f 8a vs 1836. The gift of cloth (*alamadin num thirmo orhāyo*) may be a veiled reference to widow remarriage.

for 'Inayat Bibi in 1756 shows that that the people who drew up and attested the document were familiar with Islamic and Persianate document forms. The document's main vulnerabilities to legal contestation lay in its limited signs of authority and its digression from typical patterns of inheritance. Twenty-two years later, Vasal and Pirkakhas argued over precisely these features, showing their own familiarity with Islamic and Persianate document norms and the continued relevance of this knowledge even when the state did not produce such Persian documents.

4 Document and Register

Unlike the Persian *hiba-nāma*, which was an interpersonal document registered with a qazi, the Rajasthani documents regarding Pirkakhas and Vasal's dispute were official orders that became part of Marwar state records. The Marwar Kingdom's Rajasthani documents were copied in registers that formed a state archive and a reference authority for issued documents. Registers were produced in multiple stages and their contents show how Marwar's administrators thought about documents and legal procedures. While Marwar's archiving practices removed certain formulaic aspects of the original documents, the register copies became a source of authority in disputes.

Known as *bahīs*, or account books, these registers typically consist of hundreds of sheets of long narrow paper bound together at the top by a thick knotted thread. This register format was widely used by merchant and moneylending communities in Rajasthan to record transactions and inventory. These communities were prevalent in administrative posts in Marwar, so it is unsurprising that *bahīs* were the predominant format of state record-keeping. The state kept a variety of registers across different departments; they included records of subjects including pay, land grants, tax revenues and the daily activities of the ruler. The *Sanad Parwana Bahis*, in which the records of Pirkakhas and Vasal's dispute are found, contain transcriptions of orders and instructions issued by the royal court. The origin of the use of *bahīs* to record state documents in Marwar is unclear, but their use stretches from at least the seventeenth century, when the famous *dīwān* of Marwar, Muhnot Nainsi, had a *paṭṭā bahī*, or register of land grants, compiled in 1657-8 as part of his assessment of the area's administration; a copy of this *bahī* survives as part of a later text.⁶³ Most of the *bahīs* from Marwar that exist today are from the mid-eighteenth century or later; the vicissitudes of time and the succession disputes of the

63 Saran and Ziegler, *The Mertiyo Rathors of Merto, Rajasthan*: 21; Sinh, "Preface": xix-xxi.

mid-eighteenth century likely destroyed earlier bahīs. The extant series of Sanad Parwana Bahis begins in 1764 and runs to 1938, but my remarks here focus on the 53 registers from before 1800. Each bahī covers one year of records according to the Shravanadi system of the Vikram Samvat calendar, which starts with the month of Savan (July/August). Sometimes, the records for a given year are recorded in two bahīs. In these instances, the structure of both bahīs is usually the same and both contain entries from throughout the year, but their contents are not identical. Within each register, documents are copied in chronological order under headings for the different parganās where they were sent, which are further subdivided into three administrative offices: the *kachairī*, *sāyar* (customs' treasury) and *kotwālī chauntarau* (fiscal and urban administration). The head officials of the office are named at the beginning of each subsection. Further headings at the back of the registers cover topics such as messengers sent, revenues collected in the districts, and general orders (*parwānās*) and notes (*chitthīs*) issued by the dīwān. The structure of the Sanad Parwana Bahis meant that each document entry could be traced with the knowledge of date, location, and administrative division.

The highly regular, organized structure of the Sanad Parwana Bahis suggests they were reorganized and compiled after the initial moment when documents were issued and copied in a register.⁶⁴ Another register series from Marwar, called Sanad Bahis, covers many of the same years as the Sanad Parwana Bahis. The first part of the series, at least, may be an earlier version of the Sanad Parwana Bahi records. These records are arranged chronologically and sometimes also by location but without any further organization. The receiving department and location are often noted in the first line of the transcription.⁶⁵ This suggests that they were a running record compiled when the documents were initially created. Regardless of whether the Sanad Parwana Bahis are later compilations, documents were transcribed in the state records in the mid-eighteenth century before they were issued. Marginal notes on original documents, typically also included in the register transcriptions, give instructions to copy the document before giving it to the petitioner.⁶⁶

64 I am grateful to Mahendra Singh Tanwar, director of the Maharaja Man Singh Pustak Prakash Research Centre, for this observation.

65 This is based on Sanad Bahi (SB) 285 vs 1811-14, SB 286 vs 1818-20, SB 287 vs 1824, SB 290 vs 1831, SB 291 vs 1832, SB 292 vs 1833, SB 294 vs 1836, and SB 295 vs 1837, Rajasthan State Archives, Jodhpur. The series has gaps, especially after vs 1840. From vs 1838 the entries in the volumes do become more organized.

66 'sanad rī nakal daphatar mai ūtarāy ināṃ nuṃ sump dejo' ABF 39 vs 1835; JSPB 20 f 9b vs 1835.

These registers and their organization facilitated the process of cross-checking documents. This was part of a broader shift toward a documentary culture in the eighteenth and nineteenth centuries that changed the legal strategies and outcomes of petitioners by privileging written records as evidence over ordeals (*dhij*) such as dipping one's hand in hot oil or water and oral testimony.⁶⁷ Petitioners in eighteenth-century Marwar referenced relevant prior state-issued documents to bolster their cases. Such documents could be traced in the state registers even if the petitioner could not present the original and, if the original was available, the two could be compared for veracity. Pirkahas used the sanad that the court issued to him in vs 1817 to support his claim. The records of the case do not say whether he showed the vs 1817 document, though both he and Vasal referenced its existence. Their discussion implied that the sanad was a registration of the inheritance and adoption document (i.e. the *hiba-nāma*) with Shri Hajur in order to reauthorize it. That process was also a moment of translation: Pirkahas sought to have the rights described in an interpersonal Persian document recorded in a state-issued document and official register written in Rajasthani. Unfortunately, neither the Sanad Parwana Bahi from vs 1817 nor the original sanad survive so it cannot be compared to the Persian document.

However, the sanad produced during the dispute exists both in the register and as a separate document.⁶⁸ Comparing the two reveals the norms and processes of record-keeping. Except for a few minor scribal errors and spelling variances, the document and register copy matched word-for-word in their narration of the main text including the summary of the petition and Shri Hajur's order. The only exception to this word-for-word equivalence is that the register copy does not include the opening lines of the separate, presumably because they were formulaic and well-known by the scribes and administrators in charge of the registers. Although the sanad was given to the petitioner, its formulaic introduction was structured as correspondence between an official in Jodhpur, Singhvi Phatechand, and the *hākīm* (governor) in charge of Nagaur's *kachaiṛī*, Bhandari Sobhachand. The wording of this introduction closely matches the formulae found in other sorts of correspondence and documents in Marwar and neighbouring Rajput kingdoms including Amber.⁶⁹ The document opens with the names of the sender and the addressee, states that

67 Sahai, "To Mount or Not to Mount?": 174-81.

68 See Appendix 1 for an image, transcription and translation of the register copy.

69 M. Horstmann, "The Preambles of Official Letters from Rajasthan: Towards a Stylistic Typology." *The Indian Historical Review* 25/1 (July 1998): 29-44. Horstmann, *In Favour of Govinddevji*: 47.

all is well in Jodhpur due to the glory of the Maharaja, and conveys well-wishes to the addressee. This contrasts with the typical opening formulas in Persian documents such as *parwānas* that convey orders about property and revenue to local officials, which are functionally similar to the Rajasthani sanad discussed here. In such Persian documents, officials are not addressed by name. Rather, using the titles of official posts, the opening line commands that those officials, present and future, should know the content of the order. This structure constructs this type of Persian document as a general and perpetual order, while Rajasthani sanads typically are framed with reference to particular officials.⁷⁰ In this instance, it was up to Bhandari Sobhachand to enforce the settlement of the dispute between Vasal and Pirkakhas. The Rajasthani sanad and the register copy name two further individuals, Bhandari Samvatram and Pandit Phataikaran, in the margin. Their names are preceded by the abbreviation 'du.' for the word '*duwāyat*,' or '*dawāyatī*,' meaning assent or decree. This may indicate they were the officials who authorized the document or possibly the scribes. Taken together, the differences between the two texts mean that the register copy reads like an unadorned and impersonal order, while the original document is rendered as a formal letter to administrative officials that matches G.S. Sharma's characterization of the documents recorded in *bahīs* such as the Jodhpur Sanad Parwana Bahis as 'letters of instruction.'⁷¹

Two further differences between the document and the register indicate their respective uses and relation to authority. The first is the location and style of the date. In the document, the date occurs at the end and is written with the year first.⁷² In the register, the date is written as a heading above the text in which the year is the final element and sometimes omitted. These dating structures facilitate locating the register copy. The year on the document indicates the correct register, within which the month becomes the more salient information.

Secondly, the sanad has a large round seal of the *dīwān* of Jodhpur inscribed in Persian on the top of the page, but this is neither copied nor mentioned in the register entry. This is the only Persian-language element on the page. Seals on documents from the Marwar state were mostly in Persian, regardless of

70 In a bilingual *parwānā* of 1711 from Amber the Persianate expression 'present and future officers' is used in the Rajasthani. I have not seen this formula in Marwar documents. Horstmann, *In Favour of Govinddevji*: 52, 208.

71 G.S. Sharma, "Sources on Business History of Rajasthan (18th and 19th Centuries AD)," *Proceedings of the Indian History Congress* 54 (1993): 899.

72 Writing the year first is a unique feature of Marwar documents common since the end of the seventeenth century. ABF 19 vs 1755; Horstmann, *Govinddevji*, 304-7 and vs 1860, Asadha s. 9.

whether the document was written in Persian or Rajasthani, at least until the early nineteenth century.⁷³ Thereafter, the royal court gradually shifted to Rajasthani seals in the Devanagari script.⁷⁴ This was a comparatively late shift; in the kingdom of Amber the king's seal changed from Persian to Rajasthani by 1734 and those of state officials within the next decade.⁷⁵ Even after the script change, the prominent round seal at the top of the page was evocative of the style and placement of Mughal imperial seals. That the seal was neither included nor mentioned in the register copy is unsurprising because, as internal state records, the registers did not require that sort of mark of authority. However, the omission is a further way that Persian elements in Rajasthani documents are rendered invisible in the registers.

The correlation between the sanad and the transcription in the register shows the highly organized chancellery and record-keeping system within the king of Marwar's court. Petitioners were aware of these structures and referenced prior documents in their cases even if they did not actually procure the documents in question. This practice reflects the fact that state records were a source of authority, and the presence of a prior document in the records could shore up a claim about traditional practice—an important factor in a legal system that prioritized custom. The testimony in the dispute between Pirkakhas and Vasal demonstrated the potential importance of such registration yet also indicated that state records were subject to community scrutiny and only effective with community recognition of their authenticity. Documents existed in tension between the state and community across time. Pirkakhas could only claim the rights accorded to him by the state in the vs 1817 sanad and the vs 1835 sanad if the pirezada pañch and nyāt also recognized the legal validity of the documents, and questions about the validity of the hiba-nāma could undermine both sanads.

5 Jurisdiction, Community Justice and the Qazi

Why did Vasal and Pirkakhas bring their dispute to Shri Hajur? That the case made it there at all, and the way that the court responded to it suggests the

73 Horstmann, *In Favour of Govinddevji*: Facsimiles vs 1836 Magha b. 8 / 29 January 1780, vs 1860 Asadha s. 9 / 28 June 1803. ABF 21 VS 1764; ABF 27 VS 1773; GS VS 1887.

74 The first Devanagari-script seal on a document from the Jodhpur court in the ABF collection is from c. 1826. ABF 41 VS 1883.

75 Horstmann, *In Favour of Govinddevji*: Facsimiles vs 1784 Asvina b. 11 / 31 August 1727, vs 1790 Magha s. 4 / 27 January 1734; re.y. 1801 / vs 1802 Bhadrpada b. 5 / 6 August 1745 (Govindpuro).

complex legal landscape of eighteenth-century Nagaur. Settling inheritance disputes was traditionally one of the key duties of qazis, so one might have expected that Vasal and Pirkakhas would take their dispute over the hiba-nāma to a qazi, as other members of their community had done for a similar dispute in 1718.⁷⁶ However, notably, while the case involved multiple pañch tribunals, a nyāt assembly, local kachaiṛī officials, and the king's court, the only reference to a qazi in the case is Pirkakhas's testimony about the qazi's seal. This was despite the fact that qazis were active in Nagaur and the pirzadas continued to have documents written and sealed by them throughout this period. Vasal and Pirkakhas's legal practices highlight the complex relationship between the state, community tribunals, and qazis and suggest that the political changes of the eighteenth century decreased the scope and scale of the qazi's role in Nagaur.

The nyāt and pañch were the most common sites of justice in eighteenth-century Marwar, though their precise formation and functioning remains opaque due to limited evidence. The nyāt was the sub-caste unit or clan in a particular locality that regulated the appropriate social behaviours of its members. The pañch consisted of a smaller number of men, typically five, who were community leaders and who arbitrated disputes and regulated community behaviours and customs. Both the pañch and nyāt played a key role in handling interpersonal but intra-community disputes. Although strong evidence for their role in Marwar only exists from the mid-eighteenth century, they likely were important local sources of justice during earlier periods as well.⁷⁷

Alongside, and often in collaboration or tension with, the nyāt and pañch, the king's court resolved disputes. Kachaiṛī and kotwālī chauntarau officials referred intractable matters to the king's court, and individuals and groups of petitioners also approached the king directly to lodge or appeal cases. The king's court favoured custom and tradition as the guiding principle for deciding cases. Orders often included injunctions to do the 'appropriate' or 'wājabi' thing. Wājabi was a contextual notion of ethical behaviour; the notion of what exactly comprised appropriate behaviour varied depending on the background

76 ABF 16 1095 AH; M.L. Bhatia, *The Ulama, Islamic Ethics and Courts under the Mughals: Aurangzeb Revisited* (New Delhi: Manak Publications, 2006): 171; N. Chatterjee, "Reflections on Religious Difference and Permissive Inclusion in Mughal Law." *Journal of Law and Religion* 29/3 (2014): 410. The earlier dispute also hinged on a woman's hiba-nāma. ABF 32 1130 AH.

77 Similar community legal structures were in place in seventeenth and eighteenth-century Maharashtra. R. O'Hanlon, "In the Presence of Witnesses: Petitioning and Judicial 'Publics' in Western India, circa 1600-1820." *Modern Asian Studies* 53/1 (January 2019): 57-61.

and standing of the persons involved.⁷⁸ This term has etymological roots in the Perso-Arabic word ‘*wājib*,’ which refers to a core Islamic legal concept regarding necessary actions. The possible substantive intellectual and legal connections between the concepts of *wājib* and *wājibī* requires further research. In practice, in Marwar the ‘*wājibī*’ or appropriate thing usually was that which was always done (*sadāmad*). However, in protracted or highly contested cases the court sometimes vacillated in its designation of customary behaviour or rights depending on how investigations and petitions progressed.⁷⁹ Disputing parties also may have used their cases to negotiate the nature of community customs or get innovations endorsed by the state as customary.

Qazis were a third legal forum in Nagaur and many other parts of Rajasthan. Studies of documents from Gujarat and Malwa have established a clear picture of the praxis of Mughal qazis in the seventeenth and early eighteenth century. The qazi was a key local representative of the Mughal state and its judicial framework. Although in theoretical models of Islamic law the authority of a qazi lay outside of the state, in the Mughal Empire the qazi was appointed and paid by the state.⁸⁰ Qazis in Mughal India decided cases and issued documents in accordance with shari‘a jurisprudence. However, their applications of shari‘a were not strictly textual and legalistic. Rather, the shari‘a they practised was discursive and responsive to local interests as well as state orders. Qazis were typically approached by petitioners. They decided cases, issued and registered documents, and authenticated document copies for Hindus as well as Muslims, particularly in matters regarding property and transactions such as land sales, mortgages, and inheritance.⁸¹ The qazi’s court issued documents in Persian using standard forms and formulas that drew on a long history of Persian documentary practices. It was therefore a key site where Mughal subjects encountered Persian. Although the archive regarding qazis in Mughal Rajasthan is fairly sparse, it suggests that this model held, at least in tankhwāh jāgīr and *khālīṣa* areas.⁸² Mughal rulers appointed qazis in many parganā

78 Sahai, *Politics of Patronage and Protest*: 25-6.

79 For example, in one 3-month period the state gave two conflicting rulings on custom regarding a Holi procession. JSPB 3 f 29a, 31b vs 1822.

80 Chatterjee, “Reflections on Religious Difference and Permissive Inclusion in Mughal Law”: 405-6; Hasan, *State and Locality in Mughal India*: 95-6; J.E. Baldwin argues similarly for Ottoman Cairo. *Islamic Law and Empire in Ottoman Cairo* (Edinburgh: Edinburgh University Press, 2018): 6.

81 Chatterjee, “Reflections on Religious Difference and Permissive Inclusion in Mughal Law”: 404-5, 408-10; Hasan, *State and Locality in Mughal India*: 71-3, 99-100; Grewal, *In the By-lanes of History*: 32.

82 Where there is evidence of qazis in waṭan jāgīrs, some were imperial appointees and others hereditary postholders. In the 1680s and 90s, the Mughals appointed qazis in

headquarters in Rajasthan, including Nagaur, and Nagaur's qazis regularly authorized transactional documents and document copies for the community, including for Hindus.⁸³

As the Mughal Empire faltered in the eighteenth century, the position of qazis across Rajasthan depended increasingly on local politics.⁸⁴ In Nagaur, qazis were recognized as a kin and occupational group. They were confirmed in their (now hereditary) post by the Marwar ruler and received small amounts of state charity, but were not central figures in the state administration or judicial procedures.⁸⁵ While Mughal officials like the *šūba-dār* (provincial governor) had referred petitions to the qazi to settle, Marwar's maharaja and local officials referred cases not to qazis but instead to community tribunals.⁸⁶ Furthermore, without the state's backing for the use of Persian documents, the clientele shrunk for the qazi's notarial services. From at least the mid-eighteenth century, property transactions and disputes in Nagaur were largely conducted in Rajasthani and often overseen by the officials of the *kotwālī chauntarau* and *kachaiṛī* departments. Residents had copies of documents made and recorded in these departments as well.⁸⁷ Although the *pirzadas* continued to procure and register new Persian documents from the qazi regarding property sales and inheritance throughout the eighteenth century and into the nineteenth, in doing so they seem to have been the exception, not the rule.⁸⁸

Vasal and *Pirbakhas's* path to dispute resolution was not unusual. In the second half of the eighteenth century, the *pirzadas*, despite continuing to make use of the qazi's notarial services, frequently opted to settle property disputes

Amber. In 1679, Jodhpur's qazi, who held the post on a hereditary basis, was described by a Mughal news-writer as uneducated but well-liked by the populace. Budhwar, "The Mughal Administration of the Suba Ajmer": 66, fn 3; *Waqa'i Sarkar Rantanbhor wa Ajmer*: f 161.

83 ABF 16 1095 AH; In 1678-9, qazis were appointed or serving in places including Ajmer, Nagaur, Toda, Malpura, Tonk, and Sambhar. *Waqa'i Sarkar Rantanbhor wa Ajmer*: f 10, 23-4, 35-6, 45, 59, 177. HCM 15 Julius 39, 16 1107 AH, 17 1109 AH and 21 1147 AH record property transactions made by Hindus in Nagaur; Bare Pir Sahib documents 244 and 265 are sealed copies of earlier documents.

84 This was also the case in Awadh and the Maratha Empire. See M. Alam, *The Crisis of Empire in Mughal North India: Awadh and the Punjab, 1707-48* (Delhi: Oxford University Press, 1986): 115-6; S. Guha, "The Qazi, the Dharmadhikari and the Judge." In *Law Addressing Diversity*, ed. Thomas Ertl and Gijis Kruijtzter (München: De Gruyter Oldenbourg, 2017): 101-2.

85 JSPB 16 f 5b vs 1833; JSPB 24 f 13ab vs 1837.

86 *Waqa'i Sarkar Rantanbhor wa Ajmer*: f 22-3.

87 For example, the chauntarau made a copy of a *muchalka* (bond). JSPB 14 f 44b vs 1831.

88 GS 23 AH 1177; GS 24 AH 1193; GS AH 1202; GS AH 1207; GS AH 1220.

through community tribunals, the maharaja's court, or sometimes both.⁸⁹ These cases followed customary law as practised in Marwar at the time, which was community-specific. The precise determination of what was customary and appropriate often lay with the community, particularly regarding matters such as relationships, property and inheritance. The king's court frequently ordered investigations including questioning reliable neighbours or honourable men, assembling a pañch of community members, and summoning members of the same community from nearby towns or villages to assess the matter and determine custom. The state's decisions on disputes were often authorizations of resolutions determined by the pañch and nyāt. Sometimes, as in Pirkakhas and Vasal's dispute, different formations of community authority were summoned over time to decide the case, showing a process of negotiation to find the community body that could not only decide the matter but enforce the decision.

These practices of customary law meant that in addressing disputes brought by pirezadas the king's court incorporated, adjusted, and authorized practices related to the qazi and the functioning of qazi-courts. As in the case of Vasal and Pirkakhas, the king's court passed judgment on or reauthorized Persian documents written according to shari'a norms. Secondly, qazis or their kin possibly participated in pirezada community tribunals.⁹⁰ Furthermore, on rare occasions pirezadas solicited the opinion of a qazi in place of a pañch. Nagaur's Bare Pir pirezadas complained when chauntara officials established a pañch of Tarkin-ji pirezadas to settle an inheritance dispute and received the maharaja's permission to have the dispute settled by a qazi in Delhi instead.⁹¹ Lastly, the court endorsed oath-taking on the Quran in determining the truth of testimony in cases brought by pirezadas. The court ordered witnesses to testify on the Quran in the Vasal and Pirkakhas case, and, in another pirezada dispute, accepted that if the plaintiff was willing to take an oath on the Quran and the defendant was not, the plaintiff prevailed.⁹² These adjustments show that even as the qazi became a more peripheral figure in Nagaur's legal culture, elements of his legal practice were adapted and included as the customary

89 Between 1770 and 1780, Shri Hajur heard four further inheritance disputes from pirezadas. JSPB 10 f 73ab vs 1827; JSPB 12 f 50b vs 1829; JSPB 16 f 45a vs 1833; JSPB 24 f 41a vs 1837.

90 Yar Muhammad, the son of a qazi, witnessed a document that was written in the presence of some men of the *birādarī*, or community brotherhood (*hužūr-i chand mardum-i birādarī*), which suggests he was part of the *birādarī*. GS 24 1193/vs 1836.

91 There were longstanding tensions between the Tarkin-ji and Bare Pir pirezadas. JSPB 10 f 75ab vs 1827.

92 JSPB 22 f 8a vs 1836, JSPB 13 f 80a vs 1830.

law of Muslim communities. In taking their case before Shri Hajur, Vasal and Pirkakhas accessed sites of justice that were not entirely removed from the norms of a qazi's court, but which were supported by greater political will from both the community and the state than was the qazi's court in 1770s Nagaur.

6 Conclusion: Persianate Law in a Rajasthani Forum

Vasal and Pirkakhas's dispute was part of a larger and longer story of changing legal and linguistic practices. The use and visibility of Persian had shrunk during the eighteenth century in Rajasthan, but it did not fully disappear even as official record-keeping practices in Rajasthani obscured its presence. Not only was it still employed in some diplomatic correspondence, but it also retained a place in some local settings. Certain communities and individuals, mainly Muslims, maintained greater fluency in Persian than others, but the former widespread use of the language meant that an understanding of the conventions of Persian documents (or access thereto) remained crucial for wide swathes of the population who wished to prove or defend various rights and privileges. Likewise, the king's court and officials required knowledge of Persian documents to judge their provenance and authenticity. However, when Persian documents were presented or debated in official and legal settings in eighteenth-century Marwar, the ensuing judgements and orders typically were written in Rajasthani, indicating an act of translation. Translation of full Persian documents also occurred and Persian documents may have been replaced in legal proceedings by later Rajasthani sanads that testified to their contents. This meant that Rajasthani documents not only borrowed technical vocabulary from Persian, but also worked in conjunction with Persian documents even as Perso-Arabic script became less visible in official documents. This trend held into the first half of the nineteenth century. While the Marwar kingdom's political reformulation as a princely state did lead to an increase in Persian diplomatic correspondence with the East India Company, the state's primary language of administration remained Rajasthani at least until the 1850s.

Throughout much of the nineteenth century, Nagaur's *pirzadas*, including Pirkakhas and his descendants, continued the legal and linguistic patterns I have examined here. They procured documents establishing and recording transactions within the *pirzada* community, including property sales, wills and

gift deeds, in Persian from the qazi.⁹³ This ongoing practice may have been due to their community identity and occupation. The pirzadas maintained knowledge of Persian to access Sufi discourse; as part of Nagaur's Muslim elite they may have found it important to document their transactions in accordance with shari'a. However, they also regularly brought disputes, including those within the community and concerning shrine rituals, before Shri Hajur and the pirzada pañch. In doing so, they gained decisions from legal forums with a broader ability to enforce those decisions than the qazi.

Alongside the changing place of Persian in Nagaur, the legal forum most closely tied to the local use of Persian—the qazi's court—also took on a more restricted role. The administrative functions the qazi had fulfilled under the Mughals, such as registering property transactions, were largely taken over by the kotwāl. However, qazis continued to exist and the Marwar state understood the qazi's rulings and the documents he produced in accordance with shari'a as part of the customary law of various Muslim castes. The more restricted scope of the qazi's clientele, combined with the fact that the qazi was the main source of Persian documents in the locality, may have seen a re-inscription of the affiliation of Persian with particularly Islamic identities at this time.

The eighteenth-century shifts in the language of governance and legal forums combined with innovations in recordkeeping contributed to fissures and disjunctions in the local legal culture. Some individuals, such as Pirbakhas, embraced opportunities for document registration and hoped the rising place of documents in the hierarchy of evidence would secure their claims. Others, like Vasal, maintained ideas that legal authority rested in the testimony of the community. The state itself was often stuck between these logics, wanting to uphold the legitimacy of documents but repeatedly reliant on community elders to find appropriate resolutions to intractable disputes. Ultimately, the interpretation and 'work' done by the contested hiba-nāma depended on community understanding and the endorsement of Persian legal forms in a Rajasthani context.

93 The most recent of these is from 1875 CE. GS 1292 AH/VS 1932.

Appendix: Jodhpur Sanad Parwana Bahi 20 f 9b Pos Bad 4 vs 1835

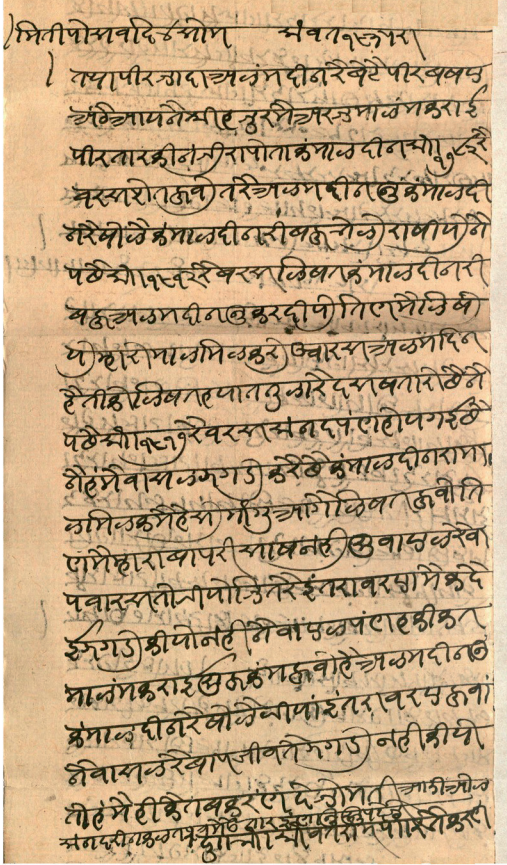


FIGURE 1
 Portion of Jodhpur Sanad Parwana
 Bahi 20 f 9b
 IMAGE COURTESY OF THE
 RAJASTHAN STATE ARCHIVES,
 BIKANER

1. मिती पोस बदि ४ सोम संवत १८३५ रा
2. तथा पीरजादा अलमदीन रै बेटै पीरबखस⁹⁴
3. अठै आयने श्री हजुर मै अरज मालंम कराई
4. पीर तारकीन जी रा पोता कमालदीन सं० १७९२ रै
5. वरस फोट हुवो तरै अलमदीन नु कमालदी-
6. न रै खोलै कमालदीन री बहु भेलो राखीयो नै
7. पछै सं० १८१२ रै बरस लिखत कमालदीन री
8. बहु अलमदीन नु कर दीवी तिण मै लिखी-
9. यो म्हारो माल मिलक रो ऊवारस अलमदिन

94 In the original document the letter ष is used for ख, as is common in Rajasthani documents and manuscripts.

10. है तीको लिखत हयाततुला रै दसखता रो छै नै
11. पछै सं० १८१७ रै वरस संनद पंण होय गई छै
12. नै हमै वासल झगडो करै छै कमालदीन रा मा-
13. ल मिलक मै हेसो मांगु आगै लिखत हुवो ति-
14. ण मै म्हारा बाप री साख नंही सु वासल रै वा-
15. प वारस तो लीयो जितरै इंतरा वरसा मै कदै-
16. ई झगडो कीयो नंही नै वासल पंण हकीकत
17. मालम कराई सु हुकम हुवो है अलमदीन नु
18. कमालदीन रै खोलै लीयां इतरा वरस हुवां
19. नै वासल रै बाप जीवतै झगडो नंही कीयो
20. तो हमै ही कैतब करण देजो मती आडीओल
21. संनद री नकल तफल⁹⁵ मै उतार इणा नु सुप देजो
22. दु० भां० सांवतराम पां० फतैकरण

1. Dated Pos Bad 4 Monday of the Samvat year 1835
2. Since Pirjada Alamadin's son Pirbakhhas
3. having come here entered a petition to Shri Hajur:
4. Pir Tarkin-ji's descendant Kamaladin died
5. in the Samvat year of 1792.
6. Then Kamaladin's wife adopted Alamadin on Kamaladin's behalf and
7. later in the Samvat year of 1812 Kamaladin's wife
8. made a document to Alamadin in which it was written
9. the heir of my possessions is Alamadin.
10. That document has the signature of Hayattula. And
11. later, in the Samvat year of 1817, a sanad also was created.
12. And now Vasal is quarrelling: in the possessions of Kamaladin
13. I demand a portion. Previously a document occurred
14. in which there was not my father's witnessing [included]. So Vasal's
15. father did take a right to inheritance, and through all those years
16. he never quarrelled. And Vasal made the situation known again
17. so the order has happened:
18. Kamaladin having adopted Alamadin, this many years passed
19. and Vasal's father did not quarrel while alive
20. so now also do not allow fraud to be done. Margin:
21. After taking a copy of the sanad in the daftar, entrust [the sanad] to him.
22. Authorized by Bha. Samvatram (and) Pa. Phataikaran

95 Scribal error for दफतर.

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Abbreviations

- ABF Private Papers, Peer Sufi Abdul Baqi Chishti Farooqi, Nagaur.
 GS Private Papers, Pir Ghulam Sarwar Chishti Sulaimani Faruqi, Nagaur.
 HCM Hardayal Chand Mathur Collection.
 JSPB Jodhpur Sanad Parwana Bahi.
 NAI National Archives of India.

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 Private Papers, Bare Pir Sahib Dargah, Nagaur.
 Private Papers, Peer Sufi Abdul Baqi Chishti Farooqi, Nagaur.
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