Oxford Handbooks Online

Indian Law

Mitra Sharafi

The Oxford Handbook of Legal History
Edited by Markus D. Dubber and Christopher Tomlins

Print Publication Date: Aug 2018 Subject: Law, History of Law, Legal System
Online Publication Date: Sep 2018 DOI: 10.1093/oxfordhb/9780198794356.013.44

Abstract and Keywords

This chapter considers what the future holds for the field of Indian legal history, which has burgeoned since the late 1990s. It explores opportunities for methodological innovation through digital history, oral history, and collaboration between scholars. These approaches promise to counterbalance certain patterns that have developed to date, particularly the heavy reliance on written English-language records from the colonial period. It suggests that the future of Indian legal history looks bright, particularly if scholars are willing to experiment and re-tool. By working together, turning outward, and acquiring the skills to engage with new media and techniques, scholars can continue to re-imagine and re-invigorate the field of Indian legal history.

Keywords: legal historiography, legal history, Indian law, digital history, oral history

*WHAT does the future hold for the field of Indian legal history, which has burgeoned since the late 1990s? This chapter explores opportunities for methodological innovation through digital history, oral history, and collaboration between scholars. These approaches promise to counterbalance certain patterns that have developed to date, particularly the heavy reliance on written English-language records from the colonial period.

I. The Long Shadow of Colonialism

Within the field of Indian legal history, the colonial period dominates. The focus has been on British India from the late eighteenth century until independence in 1947, and on the history of religion and gender in India's various personal law (p. 840) systems.[1] Why have scholars been so fixated on the colonial era, compared to the periods before and after? The answer lies in the colonial archive: it is voluminous, comparatively well preserved, and relatively accessible in Britain and India (although preservation efforts are still needed). As the study of Indian legal history has become increasingly populated by historians since the 1990s, archival features have shaped the field more than during the second half of the twentieth century, when scholars tended to be academic lawyers less focused on archival research.[2]

A second explanation relates to language: does a preference for English or a lack of fluency in other Indian languages push many scholars towards the study of British India? This possibility intersects with the problems of limited access to and comparatively poor preservation of non-English-language sources; it may be impossible to separate language preference from the source issue. However, relying on non-English primary sources would allow scholars to better explore a host of themes and venues, including non- and quasi-state religious law; legal consciousness reflected in popular songs, films, and street plays; and the legal culture of princely states.[3] Stepping away from sources in English (along with Persian and Sanskrit, for that matter) would also enable scholars to trade a pan-India framing for a focus on regional and community-specific legal cultures.

One could protest that legal history is by definition state-centric, and that if one wants to study law in modern Indian history, the core texts will be in English. This explanation may hold for the case law of apex courts and all-India legislation. But it becomes less and less compelling as one moves from the colonial to princely state courts (pre-1947), from the all-India to the local level, and from state to non-state law.

Finally, it may be that colonial legal history dominates because of academia's self-replicating mechanics. Faculty members who specialize in the colonial period have attracted graduate students interested in the same era or have steered students in this direction, given the advisors' own expertise. In addition, language skills for the less commonly taught South Asian languages (meaning all languages other than Hindi, Urdu, Sanskrit, or Persian) are often hard to acquire at universities outside of India. Together, these factors may have funnelled scholars, particularly those outside of India and of non-Indian background, into the study of British India.

(p. 841) Within the historiography of India's colonial legal history, two questions stand out. The first is the 'who won?' question; the second is the colonial continuities debate. *Who won* when colonized people won cases in the colonial courts? This question is a version of one of the most important questions in legal history among scholars of England and the U.S.: were courts rigged in favour of elites, as Marxist scholars suggested in the

1970s?[4] Or did they provide an arena of struggle where non-elites could find their voice and protect their interests, as Hendrik Hartog and others have argued?[5] Could there be another, equally compelling way to understand the experience of litigation?

For British India, it could be most productive to ask, *who won in what ways?* Did Indian litigants (particularly non-elites) win by occasionally winning a case against the state or British parties? Or did the state win by forcing litigants to fight out these conflicts within the state's own system? Did even victorious Indian litigants win the battle but lose the war by winning their cases on the state's terms? Did the colonial courts act like a pressure-valve system in which other forms of anti-colonial resistance and conflict were diffused (for some time) by allowing occasional victories to Indian litigants? Put more broadly: what did it mean for Indian litigants to win cases in the context of colonial rule? How did this change in independent India—or did it? Racial difference became a less prominent theme in the independent period, but communalism, casteism, and colourism did not.[6] The question persisted: did non-elites have the possibility of experiencing their day in court in any meaningful way? What of India's post-1950 era with a written constitution, when non-elites like sex trade workers and Muslim butchers asserted their constitutional rights?[7] And how should we understand the rise of public interest litigation in the wake of India's temporary slide into authoritarianism during Indira Gandhi's Emergency (1975–1977)?[8]

If the courts were open arenas for conflict, then the gateway question of access to the courts becomes all-important. Scholarly histories of legal aid and pro bono work in India are important projects that scholars have only begun to explore.[9] **(p. 842)** The role of non-governmental organizations are also part of India's access-to-justice history, as are public interest litigation and legal pluralism.[10] Socio-legal scholars have declared a 'renaissance' in the study of access to justice in the USA.[11] Legal historians might pursue this topic further for India, not least of all to better contextualize Indian case law.

The 'colonial continuities' debate also begins with the colonial period, although from the vantage point of the post-colonial. How should we regard colonial-era law in independent India? What role have colonial institutions and values continued to play in the post-colonial legal system? Is all or only some colonial-era law in force today tainted by the perceived exigencies of colonial rule? Does the fact that certain cases and legislation in force today were produced by the colonial system mean that they should be rejected and replaced whenever possible? The pre-colonial is relevant to this debate, too. Early modernists can tell us whether concepts like anti-sodomy prohibitions, *thuggee* or dacoity (highway robbery associated with particular 'criminal tribes'), and even the caste system and Hinduism as unified entities, for instance, were as distinct to the colonial period as colonial historians suggest.[12]

The colonial continuities debate has also spilled beyond the bounds of academia. It figures into assessments of sedition and anti-terrorism laws in India today. Most prominently, it has played a central role in struggles over gay rights in the Indian courts. In 2009, the Delhi High Court found the 'unnatural offences' provision of the Indian Penal

Code (section 377) to be unconstitutional.[13] Four years later, the decision was overruled by the Indian Supreme Court.[14] Critics of section 377 (including the Delhi High Court) asserted that the criminalization of same-sex intercourse was a British import and that it was suspect because it was a colonial-era law. Conservative defenders of section 377 argued that on the contrary, it was the concept of gay *rights* that was foreign and a form of cultural neo-imperialism. The accusation of being under Western influence, in other words, is a rhetorical weapon used by both sides. Is homophobia as enshrined in the criminal law an instance of cultural imperialism that lives on in post-colonial India? Or are LGBTQ rights a set of outside values being imposed on Indian (p. 843) society in neo-colonial fashion? Neither side seems willing to admit that Western influence may have played a major role both in IPC section 377 *and* in its potential invalidation.

The colonial continuities debate plays out in complex ways at several levels. While its participants argue over which perspective is more tainted by Western influence, the discussion itself replicates a pattern established during the colonial period. Then, as now, debates over legal reform were particularly fierce when they pertained to sexual practices, echoing Partha Chatterjee's idea of an inner sphere of family (and sex) being aspirationally beyond the reach of government regulation.[15] In other words, the section 377 debate is the latest in a line of contentious reform debates since the colonial period over sex and sexuality, including debates over the age of consent (focused on child marriage) and Hindu widow remarriage (aimed at ending its prohibition). There is also the relationship between criminalization and the formation of same-sex identity. In many parts of the world, the criminalization of sodomy was a catalyst for the rise of homosexual identity, particularly among men. If the Indian story is similar, then LGBTQ opponents of the anti-sodomy law may find colonialism to be not only the source of their oppression, but also of their sexual orientation-based identity.

Anil Kalhan, Arudra Burra, Kalyani Ramnath, Rohit De, and others have addressed the colonial continuities debate directly.[16] Another body of work also comes at many of the same issues obliquely. This is the scholarship on the vernacularization (here meaning Indianization) of colonial law.[17] The argument goes that over time, key features of colonial law—like the English language itself—became Indian.[18] Complex bundles of ideas from the rule of law and constitutionalism to women's rights travelled from the metropole to the colony under British rule. However, these soon became reshaped, melded, and 'braided' together with South Asian languages, value systems, institutional cultures, and models of governance, along with customary and religious systems of norms and dispute resolution.[19] For instance, Indian (p. 844) petitioning cultures and adjudicatory bodies like *panchayats* (caste or community councils) shaped the evolution of the colonial legal system.[20]

In fact, both the 'who won?' and colonial continuities debates may overstate the divide between colonial and non-colonial. The colonial and the non-colonial represented the far ends of a spectrum, rather than a closed or binary set of options. Legal historians at their best have recognized that most of what they examine comes from the concoction in the

middle. Some of the field's richest work has explored the points of fusion and repurposing of Anglo institutions that took on new life in India, along with Indian concepts that adapted to new conditions under colonial rule.

Despite the attention already paid to colonial India, there remain further issues to explore. We need more research on local and specialty courts (like the salt courts and railway courts), the lower levels of the legal profession, women in the legal profession, and law and the military during the colonial period—all areas where access to primary-source materials may be challenging. The intersection between legal history and a number of other sub-fields within history are also ripe for research. These include the place where the history of law meets: the history of the book and print culture; the history of the administrative state; environmental history; the history of science, technology, and medicine (including disaster and sound studies and the history of intoxicating substances); the history of material culture (including legal dress, furniture, and other 'law props' and symbols); and the history of architecture, the city, and space (including legal geography).[21]

Historians of colonial Indian law should also cultivate a greater awareness of socio-legal studies, an interdisciplinary body of scholarship produced by academic lawyers and social scientists.[22] Despite a rich scholarship fostered by the Commission on Legal Pluralism and the *Journal of Legal Pluralism and Unofficial Law* since the 1970s and 1980s, historians of India only discovered the concept of legal pluralism once it was shepherded into the discipline of history by Lauren Benton in 2002.[23] Other concepts developed by socio-legal scholars are waiting to be put to better use by legal historians. These include the study of legal consciousness (how do people decide they have a legal rather than a social problem?) and the social reception of legal outcomes, including those mediated through social movements.[24]

(p. 845) Many of these same themes are equally under-explored for the post-colonial period, such that scholars may avoid the traditional periodization of working either pre- or post-1947. Not only has 1947 traditionally acted as a divider between historical periods of study, it has also functioned as a disciplinary boundary segregating historians from political scientists. Increasingly, though, historians since the new millennium are working on both sides of Indian independence, carving out periods that make more sense for their subject of study than the political 'full stop'—and start—of 15 August 1947.

II. The Future of Indian Legal History

A. Early Modern India and Digital Humanities

How should Indian legal history move beyond the bulge of colonial historiography? The legal history of early modern India is a much less populated era of study than its colonial counterpart. Equally, scholarship on the legal history of the Mughal empire, the dominant power in early modern India, is a much smaller body of work than the legal history of other Asian empires of the same period, particularly the Ottoman and Qing. This pattern partly reflects the availability of primary sources. Mughal legal history lacks the richness of records for Ottoman legal history, with its *kadi* court records, or late imperial China, with its Qing dynasty legal code—perhaps because the Mughal legal system was less centralized. That said, even the sources that do exist are under-used.[25] This pattern may reflect the challenges of gaining access to them when they are housed, largely uncatalogued, in regional Indian archives.

Digital humanities tools are especially useful here.[26] Network analysis may illuminate connections between individuals and families appearing in early modern legal sources, including merchants, religious figures, courtiers, judges, and others involved in using or structuring law.[27] A hub of early modern sources from the same locale could form the basis for a digital mapping project that would reconstruct (p. 846) aspects of socio-spatial life—with the ability to highlight environmental, residential, commercial, or religious sites, for instance. Such a project could also show how these geographies changed over time, using a map with a sliding timeline.[28] Both network analysis and mapping should be of special interest to scholars wanting to use legal sources to write about social history, in other words. For those more interested in the development of law and legal culture, text analysis can illuminate the migration and permutation of legal terms and concepts across time and territory.[29] Digital tools should not be ends in themselves. Rather, they are means of generating insights and arguments that would not be otherwise evident.

Even the simple digitization of manuscript sources is of great value. Fields like the medieval history of China and Europe, as well as Ottoman history, have been invigorated by online access to materials that formerly lay buried in Eurasian archives. The volume of sources is smaller and older for early modern India than for the colonial period, making digitization both a better defined task and perhaps a more pressing one for the early modern period. The Rajasthan and Andhra Pradesh State Archives are making great efforts to digitize their early modern collections. Aparna Balachandran and Rochelle Pinto noted in 2011, however, that while many regional archives in India have digitization schemes, there is little talk of making the end products accessible via the Internet.[30] In some cases, digital versions of sources are only available from a limited number of computer terminals in the archive’s reading room, for instance.[31] The reasons for this approach may be varied and complex, including fear of losing in-person visitors and of posting online material deemed politically volatile. Taking one more step back, even having a computer-searchable catalogue of holdings (available online) is relatively new at the time of writing for the National Archives of India and does not yet exist for many regional archives in India. In other words, digitization for Indian legal history means not just the kind of text and network analysis one typically associates with digital humanities

projects. Before that, it means digitizing the sources themselves. And even before that, it means converting paper catalogues into computerized ones.

As with digital history in general, it is important to recognize that the selection biases inherent in the paper archive are replicated and amplified through digital approaches. Because digitization only makes more accessible documents already selected for preservation in the physical archive, the priorities and interests of those initial selection processes necessarily reproduce themselves in the digital (p. 847) forum.[32] For instance, officials decided that certain types of documents were worth preserving, while others were destroyed to make space.[33] The categorization of records as classified or the case-by-case decisions by archivists that documents are too politically sensitive for viewing are further examples of filters that play a powerful role in the shape of the paper archive.[34] Digital history projects can only work with the products of these earlier processes. Inevitably, they also introduce their own added layer of selection—in deciding what documents to digitize and make available first, or at all. In medieval European history, the most visually spectacular manuscripts (namely those with colour illumination) tended to be digitized first, taking priority over humbler manuscripts.[35] Balachandran and Pinto note that private papers have not been prioritized in digitization efforts at one South Indian archive because of the legal ambiguity surrounding the archives' relationship with donor families.[36]

One critique of digital humanities initiatives in Western academia is that they privilege existing Euro-American sources and archives. Digitizing early modern Indian legal sources is itself one step towards redressing the balance. In India, digitization efforts for the colonial and post-colonial period are already evident through state-funded platforms. These include the Digital Library of India (rare published sources) and the Bombay High Court's Virtual Museum (which includes some unpublished case records).[37] There may also be other potential sources of support, too. The British Library's Endangered Archives Program, for instance, is available to preserve pre-modern collections of archival materials.[38] UNESCO's Memory of the World program recognizes primary sources of world historical significance that are at risk of being lost.

The need to better preserve Indian archives is of course a larger and more general issue, applying to documents from all periods. Despite the laudable digitization efforts already noted, India's vast documentary collections are on balance deteriorating at an alarming rate. Dinyar Patel has assessed the state of Indian (p. 848) archives explicitly.[39] A greater investment needs to be made in the preservation of India's documentary past. The question is: *by whom*? Indian governments (state and federal) are the obvious candidates, despite competing financial demands that many would consider to take priority. International and non-state entities like the British Library or the Ford Foundation are other options. On the one hand, their involvement may raise questions of India's sovereignty and control over its own cultural heritage. Such concerns are raw given the colonial past. On the other hand, the needs are so great and time-sensitive that arguably the preservation of the documents should be paramount. S. R. Mehrotra and Dinyar Patel

assert that international funding is necessary for the digitization of the vast Dadabhai Naoroji collection, for instance.[40]

There are also non-state groups in India that may be able to help. Continuing with the cause of Mehrotra and Patel, a funding source within the Parsi community could perhaps help fund the digitization of the Naoroji papers, for instance. Dadabhai Naoroji (1825–1917) was arguably the most important nationalist figure before M. K. Gandhi, and he was a member of the Parsi or Zoroastrian community that has sponsored preservationist projects of many kinds. Corporate sponsors are another possibility. This option seems particularly interesting since the introduction of the world's first corporate giving requirement in 2014. Under Indian company law, businesses with annual revenues over ten billion rupees ($150 million) must now give two per cent of their net profits to charity. This new rule only creates another reason for Parsi-founded corporate giants like Tata or Godrej to consider funding the digitization of the Naoroji papers. Both companies host corporate archives of their own. In short, the need to preserve and digitize legal historical sources from the early modern period onward is an urgent one whose potential funders ought to include entities beyond the state in India. The Naoroji papers are a prime example because of their association with the Parsi community, which has a long history of philanthropy. However, the greater age and fragility of early modern sources makes their digitization perhaps even more pressing.

B. Independent India and Oral History

The legal history of independent India is a better populated and more active field than its early modern counterpart, perhaps because not only historians and lawyers, but also political scientists, anthropologists, and sociologists write about this later (p. 849) period. Here, too, there are exciting methodological possibilities for future research. In particular, oral history is underused and offers a new way into the lived experience of law, particularly for periods of history too recent or sensitive to be well documented or accessible in the written archives.

Despite oral history's ascendance since the 1970s and its new world of tools and platforms created by the digital revolution, very little oral history has been done by legal historians of India. They remain focused on written sources. Through their disciplinary training and culture, many historians retain a vague discomfort with oral primary sources, grounded perhaps in an awareness of the mutability and fallibility of memory. However, written sources also contain factual inaccuracies. Like many oral history interviews, they may be put into writing many years after the episodes they describe. And whether written or oral, primary sources are framed in ways that reflect their authors' agenda and biases. These shared features aside, the choice is often not between oral and written sources, but between oral and *no* sources. Oral history interviews recover narratives that may otherwise be unavailable in any other format, in other words. As such, the conservative historian's impulse to confirm claims made in oral interviews with written sources is not always possible. An alternative approach is to evaluate oral

narratives on their own terms—to use them to reflect upon the creation of identity, memories, nostalgia, and memorialization. This means not trying to extract some kind of factual accuracy from an interview, but instead focusing on the meaning a narrative creates for its speaker or for the speaker's community.[41] In short, learning from oral historians (as well as qualitative social scientists) will help legal historians gain access to a rich parallel universe of primary materials while grappling with the methodological challenges of interviews.[42]

The traditional way to start would be to record interviews with legal professionals, particularly senior legal luminaries willing to reflect upon their careers and times.[43] Scholars of South Asian legal studies have carried out interviews of this type.[44] It would be worth fine-tuning their approach by adopting the protocols and best practices of oral historians for conducting, preserving, and disseminating interviews.[45] (p. 850) The most obvious project of this kind would focus on leading lawyers and judges during and in the aftermath of Indira Gandhi's Emergency, an experience that mobilized a generation of lawyers to defend the rule of law and constitutionalism in its wake. Another idea would be to interview legal professionals and officials in order to reconstruct institutional histories. India has a variety of specialty courts, for instance, like motor accident courts (the Motor Accident Claims Tribunal, est. 1959) and consumer courts (the National Consumer Disputes Redressal Commission, est. 1986). Oral history interviews could illuminate the history of these court systems, which have received less attention than they deserve.

A broader approach would consist of oral history interviews of litigants and social movement actors, as well as legal professionals. For instance, one could interview former princely families on the famous Privy Purse case of 1971. This lawsuit challenged the government's failure to honour agreements made with the formerly independent princely rulers who gave up power and allowed their polities to become part of independent India after 1947.[46] One could interview victims and non-profit organizations involved in the Bhopal disaster of 1984, the world's worst industrial accident to date. A complex transnational trail of litigation followed, for which an extensive digital archive is now available.[47] Equally, oral histories relating to sex-selective abortion or transnational surrogacy could create a rich body of primary sources on legal consciousness, legal consultation, the side-stepping of legal prohibitions, and the interaction between changing social views and legal regimes.[48]

Oral history and legal history exist as relatively discrete sub-fields within history and move along their own conference circuits. There has been little overlap or contact between these two scholarly communities for Indian history. But there should be more, and the relatively new Oral History Association of India is encouraging scholars to explore the intersection between oral narratives and legal studies. Historians of the 1947 partition and independence of India, the Commonwealth, and South Asian diaspora have done extensive and impressive work with oral history, including as digital humanities initiatives.[49]

(p. 851) Admittedly, there are institutional challenges to doing oral legal history. Graduate students in history departments do not usually receive training in oral history. The exceptions are those scholars working in fields like the history of indigenous peoples and African history.[50] Short courses on oral history do exist. The Columbia Oral History program and Science History Institute offer such training in the USA, as do the Oral History Society and the British Library's National Life Stories in the UK. However, these opportunities are generally rare.

It is important for those using oral history methods to adhere to ethical standards in the field. For academics in many countries, these standards take the form of principles agreed upon within the sub-disciplinary community of oral historians. For scholars based in the USA, there has been the added requirement of obtaining human subjects research approval from their home university's Institutional Review Board (IRB) prior to doing interviews. The American IRB system arose to prevent the type of abuse of human subjects by researchers that occurred during the Holocaust. For decades, the rules developed for research in medical and other scientific fields also applied to oral history research. At many American universities, getting IRB approval to do oral history could be a confusing, time-consuming, and challenging process. It has no doubt discouraged many historians who work with written sources from attempting to acquire new skills for oral history. As of 2018, however, oral history may soon be exempted from the IRB approval process.[51] For legal historians of India based in the USA, this change would make oral history less logistically challenging.

C. Law's Reach

The history of Indian case law has burgeoned as legal historians have begun using courts as archives over the past decade. Scholars have unearthed case files buried in the records rooms, storage warehouses or *godowns*, and functioning courtrooms of Indian courts themselves, including the Supreme Court of India and the High Courts of Bombay, Madras, and Allahabad.[52] Scholars have also (re-)discovered the (p. 852) records of the Judicial Committee of the Privy Council, the highest court of appeal for the British Empire. While American legal history has long relied heavily on appellate case files and the stories they allow scholars to tell, this development is relatively recent for Indian legal history.

Indian court archives are neither easy to access nor well preserved.[53] Even so, they offer incredibly rich primary-source material to those who persevere and are interested in a broad swathe of court records rather than the papers from a single case or two. Scholars with the stamina for this type of research should also be aware of some of the uneven patterns it can produce. One potential criticism is that this type of work privileges the rare and rarefied experience of appellate litigation over the everyday work of the lower courts. The latter captured the experience of a far larger number of people moving

through the legal system. Some work has been done on the history of local courts in India, particularly by scholars based in India, and other should follow.[54]

It is also easy to forget when using appellate court records that law is about more than just courts. It is also about legal culture and consciousness, legislation, regulation, policing, and punishment. More broadly still, scholars of legal pluralism remind us that law is not solely produced by the state. From this perspective, law includes other forms of norms and dispute resolution. Non-state religious law, along with customary law and councils (like the *panchayat, mel*, or *salish*) reached into rural and non-elite communities that may never have seen the inside of a courtroom. Legal 'folkways' were not always documented in written form, making oral history again of special value—for periods and episodes that live on in the memory of people alive today. Scholars of the administrative state may make a valid criticism against case law specialists, and scholars of legal pluralism in turn may make a similar point in relation to legal historians who draw exclusively from state-produced legal sources. In other words, there is a larger world of state and non-state law in India that is easily sidelined by legal histories focused on written records emanating from appellate courts.

These criticisms reflect a fundamental tension at the heart of Indian legal history. There is a disjunction between elite legal institutions (particularly courts), on the one hand, and most of the population, on the other.[55] How do we square (p. 853) the English-language, common law work of appellate courts with the everyday lived experience of millions in over a dozen vernacular languages and often rural settings who arguably had little contact with such state institutions? State courts for most of Indian history remained remote and disconnected from the lives of many. There were exceptions—like the working-class women who obtained divorces in Bombay's colonial courts and the slum-dwellers who made their case before the Supreme Court in the 1980s.[56] In general, though, an unavoidable question for legal historians of India has been: how much did the courts reach into the lives of non-elites? This issue is a version of the question for legal historians of the Anglo-American world: were courts really arenas of conflict *for everyone?*

Even for those who did make it to court, there was delay. Since the colonial period, delay has been a major problem for the courts in India.[57] Here, even people who did go to court felt the force and reach of state law blunted. It could be years, or even decades, before litigation was concluded. The delays that plagued the Indian courts enabled an alternative use of litigation—not to win one's case, but simply to tie up the other side and its property for years. 'Punitive litigating' meant that the process itself was the punishment.

Equally, there remains the age-old issue for legal historians: even for the small number of people who did go to court, how could the voice of litigants themselves be recovered given that so many spoke through carefully planned scripts on the advice of lawyers? The history of the legal profession is a vibrant and promising area of Indian legal history, particularly when focusing on Indian lawyers who acted as intellectual and cultural

intermediaries between the legal system and Indian populations. But when it is the litigant who is of interest, the challenge is to filter out the scripted narratives produced by the 'hired gun' lawyer, where those statements may simply reflect arguments that were most likely to succeed in court. The issue plagues legal historians writing about courtroom trials in almost all times and places. In the context of India, this phenomenon adds yet another layer of padding between law and social life.

Together, these issues suggest that studying formal law, particularly through appellate court records, may give little insight into law as a social institution. One counter-argument is that even when interactions with state law—filtered through bureaucracy or police—were rare, they could be life-shaping nonetheless. And even in the absence of consistent enforcement, regulation could and often did loom large in people's lives. The threat of interaction with police or other organs of the state in the clearance of illegal slums or street hawkers, for instance, meant that law *was* felt by people, even if they interacted only rarely with the state and never entered (p. 854) a courtroom. Scholars of the future should further explore such arguments about law's reach.

Another approach to the legal pluralism part of this discussion—the question of state and non-state law—is the interactive view. Rather than state and non-state law blocking each other out, one could argue that the two interacted constantly and shaped each other. Non-elites did have contact with state law, the argument goes, even if they interacted solely with non-state law. In north India today, caste councils known as *khap panchayats* have come into conflict with state law for allegedly ordering rape as a punishment and condoning honour killings for exogamy. However, the longer history of *panchayats* reflects a much more symbiotic relationship with the state. For much of the nineteenth century, for instance, the state worked to strengthen and broaden *panchayat* authority. Many in the independence movement embraced the *panchayat* as an institution, and post-colonial governments again experimented with state-bolstered versions in the twentieth century.[58]

Many questions remain: has the nature of sources for legal history structured views of law in the field, generating an excessive focus on litigation and state law? Has the reach of state law been broad and deep in India? Collaboration between scholars of Indian legal history may offer the field new ways to tackle questions like these.

D. Collaboration

Most scholars have focused on one end or the other of the legal pluralist spectrum—whether re-discovering the archival records of India's highest courts, on the one hand, or illuminating non-state dispute resolution in *panchayats* and non-state religious courts, on the other. How can the field bridge the space between state and non-state dispute resolution? How might scholars find a way to take advantage both of the written archival sources and the oral history (or ethnographic) research? Outside of legal history, some individual scholars have married historical and anthropological, archival and

ethnographic, methods.[59] For most scholars, however, it may be more practical to team up with each other. For reasons rooted in the mysterious ways disciplinary cultures develop, legal historians—like historians and academic lawyers—rarely collaborate.[60]

(p. 855) Through co-authorship, scholars could produce truly interdisciplinary work that would bridge state and non-state dispute resolution, spanning law, history, and anthropology, for instance. A historian could equally collaborate with a legal practitioner in India today—particularly to assess the colonial continuities debate on anti-sodomy or -terrorism laws, for instance.[61] They could also assess materials in multiple languages. This is particularly appropriate in multilingual India, with more than twenty official languages recognized at state level and with its many scripts and countless regional dialects. India's multilingualism makes gaining access to a full range of voices all the more challenging, such that collaboration makes special sense for the study of more than one linguistic community or region, whether geographically adjacent or from different parts of India. For example, a scholar working with Gujarati sources could team up with another using Marathi for a project on the legal history of Western India. Or a historian working with Tamil sources could collaborate with another working in Burmese for a comparative study of law at colonial port cities Madras and Rangoon along the Bay of Bengal. Scholars with expertise in different bodies of law could also produce impressive work together. A scholar of Hindu law and another of Islamic law, for instance, could do comparative work across fields of personal law with the ability to engage with religious texts in multiple languages and traditions.

Admittedly, institutional pressures in the scholarly life cycle often dis-incentivize collaboration. Co-authorship requires added coordination challenges and only yields half of the 'credit' of a solo-authored piece. These concerns may be especially acute for junior scholars operating within a USA-style tenure system or for any scholar in a UK-style Research Assessment Exercise system. For those in a tenure system, it may be that collaboration makes most sense for mid-level and senior scholars—and such scholars should lead in modelling this type of research. Regardless, the intellectual returns for scholars at any stage seem potentially enormous and refreshing.

III. Conclusions

In the late twentieth century, collaboration was the topic of a heated debate among scholars of colonial India. By Subaltern Studies accounts, the Cambridge School of Indian history attributed responsibility for colonial rule to Indian traders and (p. 856) others who cooperated with the British. It may be, though, that collaboration in a different sense—co-authorship—will allow the field of Indian legal history to move beyond the colonial and to enrich our understanding of the historical reach of law in Indian society. In addition, digital legal history raises new analytical and preservationist possibilities and the promise

of better access to precious and fragile primary sources. And oral history offers new ways into the lived experience of law that are often absent from the written archive.

There is one other thing scholars in Indian legal history should aspire to do. They should continue to turn outward, connecting with fields beyond our own. For instance, they can do a better job of making South Asian legal history truly South Asian, so that 'South Asia' is not just a euphemism for India. They should examine lines of influence and interaction in legal culture between India and Pakistan, Afghanistan, Bangladesh, Sri Lanka, Myanmar, Nepal, Tibet, the Maldives, and Bhutan. Comparative historical research across South Asia could also contribute to the 'colonial continuities' debate, exploring the ways that a shared colonial past continues to reveal itself (or not) across jurisdictions.[62]

Scholars should also continue to reach into the history of the larger Indian Ocean region and British Empire.[63] British Indian legal culture spread to East Africa and Southeast Asia, particularly through legislation and personnel. Equally, the growth of the Indian diaspora worldwide meant that non-state Indian 'law ways' radiated outward from India. Co-authorship between specialists of these different regions would help capture the richness of these legal zones.[64]

Finally, Indian legal history should also contribute to conversations about legal history in the broader Anglophone world. As almost a fifth of the world's population and a nation that presents itself as the world's largest democracy, India is English-speaking and common-law at its upper institutional levels. Yet it is typically absent from comparative Anglophone historical assessments. Of special interest here are India's constitutionally mandated 'affirmative action' system of quotas or 'reservations' for disadvantaged populations; constitutionalism; and law's treatment of indigenous peoples.[65]

(p. 857) The future of Indian legal history looks bright, particularly if scholars are willing to experiment and re-tool. By working together, turning outwards, and acquiring the skills to engage with new media and techniques, scholars can continue to re-imagine and re-invigorate the field of Indian legal history.

Bibliography

Ritu Birla, *Stages of Capital: Law, Culture and Market Governance in Late Colonial India* (Duke University Press, 2009)

Indrani Chatterjee, *Gender, Slavery and Law in Colonial India* (Oxford University Press, 1999)

Nandini Chatterjee, *The Making of Indian Secularism: Empire, Law and Christianity, 1830–1960* (Palgrave Macmillan, 2011)

Bernard S. Cohn, *The Bernard Cohn Omnibus* (Oxford University Press, 2004)

Rohit De, *A People's Constitution: The Everyday Life of Law in the Indian Republic* (Princeton University Press, 2019)

J. D. M. Derrett, *Religion, Law and the State in India* (Oxford University Press, 1999)

Nasser Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (University of Michigan Press, 2003)

James Jaffe, *The Ironies of Colonial Governance: Law, Custom, and Justice in Colonial India* (Cambridge University Press, 2015)

Elizabeth Kolsky, *Colonial Justice in British India: White Violence and the Rule of Law* (Cambridge University Press, 2010)

Gregory Kozlowski, *Muslim Endowments and Society in British India* (Cambridge University Press, 1985)

Chandra Mallampalli, *Race, Religion and Law in Colonial India: Trials of an Interracial Family* (Cambridge University Press, 2011)

Mithi Mukherjee, *India in the Shadows of Empire: A Legal and Political History 1774–1950* (Oxford University Press, 2010)

Eleanor Newbigin, *The Hindu Family and the Emergence of Modern India: Law, Citizenship and Community* (Cambridge University Press, 2013)

Mitra Sharafi, *Law and Identity in Colonial South Asia: Parsi Legal Culture, 1772–1947* (Cambridge University Press, 2014)

Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (Oxford University Press, 1998)

Amrita Shodhan, *A Question of Community: Religious Groups and Colonial Law* (Samya, 2001)

Rachel Sturman, *The Government of Social Life in Colonial India: Liberalism, Religious Law, and Women's Rights* (Cambridge University Press, 2012) **(p. 858)**

Notes:

(*) At the University of Wisconsin Law School, the author thanks members of the South Asia Legal Studies Working Group (particularly Cynthia Farid, Arpita Gupta, James Jaffe, Elizabeth Lhost, Marc Galanter, Sunil Rao, and Mark Sidel) and her writing group (Tonya Brito, Gwendolyn Leachman, and David S. Schwartz) for their comments. The author is also grateful to Nicholas J. Abbott, Rohit De, Leigh Denault, and Tushna Thapliyal for

their thoughts. AIR SC stands for the All India Reporter Supreme Court. This chapter was written in 2017.

([1]) For an overview of the field, see Mitra Sharafi, 'South Asian Legal History' (2015) 11 *Ann. Rev. of Law and Soc. Sci.* 309 ff. Although most areas of Indian law since the colonial era have been governed by a single body of law for all (territorial law), Indian family law consists of separate bodies of religious law (personal law) applied by the state's mainstream civil courts—and by judges who are not necessarily members of the religious communities in question.

([2]) Academic lawyers like J. D. M. Derrett, Marc Galanter, Upendra Baxi, and Rajeev Dhavan produced most scholarship on Indian legal history during the second half of the twentieth century. See Sharafi (n. 1).

([3]) E.g., see Elizabeth Lhost, 'Between Community and Qānūn: Documenting Islamic Legal Practice in Nineteenth-Century British India' (PhD dissertation, University of Chicago, 2017); and C. Creekmur, M. Sidel (eds.), *Cinema, Law, and the State in Asia* (2007).

([4]) E.g., see Douglas Hay, Peter Linebaugh, John G. Rule, E. P. Thompson, Cal Winslow (eds.), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (1975).

([5]) See Barbara Young Welke and Hendrik Hartog, ' "Glimmers of Life": A Conversation with Hendrik Hartog' (2009) 27 *Law Hist. Rev.* 643.

([6]) In the South Asian context, communalism refers to conflict between ethno-religious (e.g., Hindu, Muslim) communities.

([7]) See Rohit De, *A People's Constitution: The Everyday Life of Law in the Indian Republic* (2019).

([8]) See Upendra Baxi, 'Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India' (1985) 4 *Third World Legal Studies* 107 ff.; Oliver Mendelsohn, 'The Supreme Court as the Most Trusted Public Institution in India' in O. Mendelsohn, *Law and Social Transformation in India* (2014) 245 ff.; and Anuj Bhuwania, *Courting the People: Public Interest Litigation in post-Emergency India* (2017).

([9]) See N. R. Madhava Menon, 'Legal Aid and Justice for the Poor', in Upendra Baxi (ed.), *Law and Poverty: Critical Essays* (1988) 341 ff.; Marc Galanter and Jayanth K. Krishnan, ' "Bread for the Poor": Access to Justice and the Rights of the Needy in India' (2003–2004) 55 *Hastings L.J.* 789 ff.; and A. Gupta, 'Pro Bono and the Corporate Legal Sector in India', in D. B. Wilkins, V. S. Khanna, D. M. Trubek (eds.), *The Indian Legal Profession in the Age of Globalization* (2017) 275 ff.

([10]) On public interest litigation, see Bhuwania (n. 8).

([11]) Catherine R. Albiston, Rebecca L. Sandefur, ‘Expanding the Empirical Study of Access to Justice’ (2013) *Wisc. L.R.* 101 ff.

([12]) See Bernard Cohn, ‘The Census, Social Structure and Objectification in South Asia’, in Bernard Cohn, *An Anthropologist among the Historians and other Essays* (1987) 224 ff.; and Romila Thapar, ‘Imagined Religious Communities? Ancient History and the Modern Search for a Hindu Identity’, in Romila Thapar, *Interpreting Early India* (1992) 60 ff.

([13]) *Naz Foundation v. Government of NCT and others* 2010 *Crim. L.J.* 94 (India).

([14]) *Suresh Kumar Koushal and another v. Naz Foundation and others* AIR 2014 SC 563.

([15]) Partha Chatterjee, *The Nation and its Fragments: Colonial and Postcolonial Histories* (1993) 116 ff.

([16]) See Anil Kalhan, Gerald P. Conroy, Mamta Kaushal, Sam Scott Miller, Jed S. Rakoff, ‘Colonial Continuities: Human Rights, Terrorism, and Security Laws in India’ (2006) 20 *Col. J. Asian Law*, 125 ff.; Arudra Burra, ‘The Cobwebs of Imperial Rule’ (2010) 615 *Seminar* 79 ff.; Rohit De, ‘Rebellion, Dacoity, and Equality: The Emergence of the Constitutional Field in Postcolonial India’ (2014) 34 *Comp. Stud. S. Asia Afr. Middle East* 260 ff.; and symposium issue of (2016) 31 *Am. U. Int. L.R.*, particularly Arudra Burra, ‘What is ‘Colonial’ about Colonial Laws?’ 137 ff. and Kalyani Ramnath, ‘*ADM Jabalpur’s* Antecedents: Political Emergencies, Civil Liberties, and Arguments from Colonial Continuities in India’ 209 ff.

([17]) For a leading study of vernacularization in the context of international law, see Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (2006).

([18]) See the related concepts of transculturation, circulation, and flow in anthropology and comparative literature, e.g., David Damrosch, *What Is World Literature?* (2003); and Stuart Alexander Rockefeller, ‘Flow’ (2011) 52 *Current Anthropology* 557 ff.

([19]) The braiding terminology is borrowed from Projit B. Mukharji, *Doctoring Traditions: Ayurveda, Small Technologies, and Braided Sciences* (2016).

([20]) See Bhavani Raman, *Document Raj: Writing and Scribes in Early Colonial South India* (2012); James A. Jaffe, *Ironies of Colonial Governance: Law, Custom, and Justice in Colonial India* (2015); and introduction by Rohit De and Robert Travers to ‘Petitioning and Political Cultures in South Asia’, *Mod. Asian Stud.* special issue (2019).

([21]) For work that combines the history of law, materiality, and spatiality, see Paul Halliday, ‘The Stuff of Law: Some Material Considerations from Britain and its Empire, ca. 1450–1850’ (presented at the University of Wisconsin Law School, 18 April 2017).

([22]) Many socio-legal scholars are affiliated with the Law and Society Association.

([23]) Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900* (2002).

([24]) On legal consciousness, see Mitra Sharafi, *Law and Identity in Colonial South Asia: Parsi Legal Culture, 1772–1947* (2014) 58–71.

([25]) For exceptions, see Farhat Hasan, *State and Locality in Mughal India: Power Relations in Western India, c. 1572–1730* (2004); and Nandini Chatterjee, 'Reflections on Religious Difference and Permissive Inclusion in Mughal Law' (2014) 29:3 *J. of Law and Religion* 396 ff.

([26]) See generally Lara Putnam, 'The Transnational and the Text-Searchable: Digitized Sources and the Shadows They Cast' (2016) 121(2) *Am. Hist. Rev*., 377 ff. and the (2016) 34 *Law and History Review* special issue on digital legal history.

([27]) For a model drawn from U.S. digital legal history, see 'O Say Can You See: Early Washington, D.C., Law & Family': <http://earlywashingtondc.org/> (accessed 1 March 2017).

([28]) For a U.S. model, see 'Digital Harlem: Everyday Life 1915–1930': <http://digitalharlem.org/> (accessed 1 March 2017).

([29]) For an American model, see Kellen Funk and Lincoln Mullen's work on the Field Code's proliferation across American states: <http://kellenfunk.org/field-code/> (accessed 1 March 2017).

([30]) Aparna Balachandran, Rochelle Pinto, *Archives and Access* [2011] 73.

([31]) See Aparna Balachandran, 'The Delhi State Archives' (14 September 2009), available at <https://cis-india.org/raw/histories-of-the-internet/blogs/the-cyborgs/the-delhi-state-archives> (accessed 05 May 2018).

([32]) See Balachandran, Pinto (n. 30) 50–81.

([33]) On the destruction of Bombay High Court records to make space in 1923–1924, see Mitra Sharafi, 'Two Lives in Law: The Reminiscences of A. J. C. Mistry and Sir Norman Macleod, 1884–1926', in D. Y. Chandrachud et al. (eds.), *A Heritage of Judging: the Bombay High Court through 150 Years* (2012) 279–80.

([34]) On the refusal to share maps of disputed regions and documents that 'may incite communal disharmony' at the Indian National Archives in Delhi, see Balachandran, Pinto (n. 30) 28, 77.

([35]) The author thanks Samantha Kahn Herrick for this observation.

([36]) Balachandran, Pinto (n. 30) 67 (on the Tamil Nadu State Archives in Chennai, India).

([37]) See <https://ndl.iitkgp.ac.in/> (accessed 5 May 2018) and http://bombayhighcourt.nic.in (accessed 1 March 2017).

([38]) Project 636 (2013) led to the creation of a digital archive of Indian Christian manuscripts (particularly from Goa) in Konkani, Marathi, Portuguese, Latin, and English. The British Library has also launched its 'Two Centuries of Indian Print: 1713–1914' project, which will digitize 4,000 rare or early printed Bengali-language books in its collections. See Maja Kominko (ed.), *From Dust to Digital: Ten Years of the Endangered Archives Programme* (2015).

([39]) By Dinyar Patel, see 'In India, History Literally Rots Away', 'Repairing the Damage at India's National Archives', 'India's Archives: How Did Things Get This Bad?', and 'The Parsis, Once India's Curators, Now Shrug as History Rots' all in *New York Times* (20–22 March 2012). See also the 'Archives and Access' blog at <https://publicarchives.wordpress.com/> (accessed 19 March 2017).

([40]) S. R. Mehrotra, Dinyar Patel (eds.), *Dadabhai Naoroji: Selected Private Papers* (2016) xlv.

([41]) E.g., see Richard White, *Remembering Ahanagran: A History of Stories* (1998) 4–6, 302–3.

([42]) See Alastair Thomson, 'Four Paradigm Transformations in Oral History' (2007) 34 *Oral Hist. Rev.* 34:1 49 ff.

([43]) See video interviews with Iqbal Chagla and others at <www.mylaw.net> (accessed 7 July 2017). For a UK model, see 'National Life Stories: Legal Lives' at <http://www.bl.uk/projects/national-life-stories-legal-lives>(accessed 8 March 2017).

([44]) See Jayanth Krishnan, 'Professor Kingsfield Goes to Delhi: American Academics, the Ford Foundation, and the Development of Legal Education in India' (2004) 46 *Am. J. of Leg. Hist*. 447 ff; George H. Gadbois, Jr., *Judges of the Supreme Court of India, 1950–1989* (2012); and Marc Galanter, Nick Robinson, 'Grand Advocates: The Traditional Elite Lawyers', in Wilkins, Khanna, and Trubek (n. 9) 455 ff.

([45]) See the Oral History Association's 'Principles and Best Practices for Oral History' (2009) <http://www.oralhistory.org/about/principles-and-practices/>; and 'Oral History in the Digital Age' <http://ohda.matrix.msu.edu/best-practices/> (accessed 7 March 2017).

([46]) *H. H. Maharajadhiraja Madhav Rao Jivaji Rao Scindia Bahadur of Gwalior and others v. Union of India and another*, AIR 1971 SC 530.

([47]) See Marc Galanter's collection of papers in 'Bhopal: Law, Accidents, and Disasters in India' at <http://repository.law.wisc.edu/bhopal-collection> (accessed 05 May 2018).

([48]) The surrogacy industry was legal and largely unregulated by Indian law from 2002 until 2016. See Amrita Pande, *Wombs in Labor: Transnational Commercial Surrogacy in India* (2014); and Prabha Kotiswaran, 'Do Feminists Need an Economic Sociology of Law?' (2003) 40(1) *J. Law Soc.* 115 ff. at 132–5. On sex-selective abortion, see Sital Kalantry, *Women's Human Rights and Migration: Sex-Selective Abortion Laws in the United States and India* (2017).

([49]) E.g., see Ritu Menon, *Borders & Boundaries: Women in India's Partition* (1998); and Devika Chawla, *Home, Uprooted: Oral Histories of India's Partition* (2014). For online oral history archives, see the 1947 Archive <http://www.1947partitionarchive.org/>; the Cambridge Centre of South Asian Studies audio archive <http://www.s-asian.cam.ac.uk/archive/audio/>; Commonwealth Oral Histories <http://www.commonwealthoralhistories.org/>; and the Houston Asian American Archives oral histories <https://scholarship.rice.edu/handle/1911/79695> (accessed 7 March 2017).

([50]) See Jan Vansina, *Oral Tradition as History* (1985), and Luise White, Stephen Miescher, David William Cohen (eds.), *African Words, African Voices: Critical Practices in Oral History* (2001). The author thanks Neil Kodesh for these references.

([51]) See the U.S. Federal Policy for the Protection of Human Subjects: <https://www.federalregister.gov/documents/2017/01/19/2017-01058/federal-policy-for-the-protection-of-human-subjects> (accessed 1 February 2017).

([52]) See De (n.7) (Supreme Court of India), Sharafi (n. 24) (Bombay High Court), Alastair McClure, 'Violence, Sovereignty, and the Making of Colonial Criminal Law in India, 1857–1914' (PhD dissertation, University of Cambridge, 2017) (Allahabad High Court), and Kalyani Ramnath, 'Boats in a Storm: Law, Politics, and Jurisdiction in Postwar South Asia' (PhD dissertation, Princeton University, 2018) (Madras High Court).

([53]) On obstacles to gaining entry to Indian state archives generally, see Balachandran, Pinto (n. 30), 76–80.

([54]) See S. Dube, *Stitches in Time: Colonial Textures and Postcolonial Tangles* (2004); R. Pant, 'Revisiting family and inheritance: old age endowments among peasant households in early twentieth century Garhwal' (2013) 29 *Nehru Mem. Museum Lib. Occ. Papers Hist. Soc.*, new series, 1 ff.; and R. Pant, 'Matrimonial Strategies among Peasant Women in Early 20th Century Garhwal' (2014) 48 *Contrib. Ind. Soc.* 1 ff.

([55]) Partha Chatterjee makes a similar argument about 'civil society' in India. See his 'On Civil and Political Society in Postcolonial Democracies' in Sudipta Kaviraj, Sunil Khilnani (eds.), *Civil Society: History and Possibilities* (2001) 165 ff.

([56]) See Sharafi (n. 24) 193–236; *Olga Tellis and others v. Bombay Municipal Corporation and others*, AIR 1986 SC 180; and Mendelsohn, 253–4.

([57]) E.g., see Sharafi (n. 33), 269–70. The problem persists today: see Marc Galanter, 'Foreword: World of Our Cousins' (2009–2010) 2 *Drexel L.R.* 368.

([58]) See Jaffe (n. 20).

([59]) See Laura Bear, *Lines of the Nation: Indian Railway Workers, Bureaucracy, and the Intimate Historical Self* (2007); and Anupama Rao, *The Caste Question: Dalits and the Politics of Modern India* (2009).

([60]) For recent exceptions, see Lauren Benton, Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800–1850* (2016); and Amanda Nettelbeck, Russell Smandych, Louis A. Knafla, Robert Foster, *Fragile Settlements: Aboriginal Peoples, Law, and Resistance in South-West Australia and Prairie Canada* (2016).

([61]) For a similar collaboration between a historian and legal academic, see Durba Mitra, Mrinal Satish, 'Testing Chastity, Evidencing Rape: Impact of Medical Jurisprudence on Rape Adjudication', (11 October 2014) 99 *Econ. Pol. Weekly* 51 ff.

([62]) By Harshan Kumarasingham, see *A Political Legacy of the British Empire: Power and the Parliamentary System in Post-Colonial India and Sri Lanka* (2013); and 'Eastminster—Decolonisation and State Building in British Asia', in H. Kumarasingham (ed.), *Constitution-Making in Asia: Decolonisation and State-Building in the Aftermath of the British Empire* (2016) 1 ff.

([63]) See, e.g., Fahad Ahmad Bishara, *A Sea of Debt: Law and Economic Life in the Western Indian Ocean, 1870–1950* (2017).

([64]) For a contemporary model, see Benjamin Schonthal, Matthew J. Walton, 'The (New) Buddhist Nationalisms? Symmetries and Specificities in Sri Lanka and Myanmar' (2016) 17 *Contemp. Buddhism: Interdisc. J.* 85 ff.

([65]) For work that connects the Indian context with indigeneity studies of other parts of the English-speaking world, see Pooja Parmar, *Indigeneity and Legal Pluralism in India: Claims, Histories, Meanings* (2015).

Mitra Sharafi

Mitra Sharafi is Associate Professor of Law at the University of Wisconsin.