A Research Guide to Colonial South Asian Case Law

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The purpose of this guide is to help historians develop productive research strategies for the study of law in colonial South Asia. Its main focus is one particular type of legal source: case law. Those interested in pursuing legal history through legislation, colonial law journals, private papers and oral history will also find parts of this guide useful. The guide is written for researchers who do not have any prior legal training. It is based upon my own personal experience doing research over the 2001-10 period, particularly in London at the British Library, the library of the School of Oriental and African Studies, and the Privy Council Office; in Mumbai at the Bombay High Court; and at various university law libraries in the US and UK.

Most studies of law in colonial South Asia focus heavily on legislation. Where historians discuss litigation or case law, they often address only the cases that surface in government archives. These records represent only a tiny fraction of all the cases heard. With some exceptions, government archives generally only contain records of lawsuits that had special relevance to the state—whether because the government was a party to a suit, because it was approached with reference to the case, or because a case had important political ramifications. (See, for example, series L/L of the India Office Records at the British Library or the Maharashtra State Archives’ Legal Dept Records-Suits, series B-1.) A wealth of primary sources relating to case law exists in the law libraries of universities, law firms and courts, as well as in the records rooms of current-day courts themselves. These cases are absent from the records of the British Library, National Archives of India, or other state archives across South Asia and Britain. The aim of this guide is to offer an overview of the structure of this rich but underused body of sources.

1. Background: The Role of Precedent

Case law was particularly important in colonial India because British Indian courts operated on the common-law model, adopting the precedent system. In other legal systems, like those based on Roman or Islamic law, case law has comparatively less authority. In theory, common-law systems prioritize consistency between cases—treat like cases alike—over “getting it right” in a particular case, where getting it right means being inconsistent with earlier similar cases. Arguably, common-law systems value fairness in the system over substantive (and inconsistent) justice in the single case. The Latin phrase stare
**decisis** ("to stand by decisions") expresses the common law’s precedent principle. Not all cases create precedents. Only those that contain some new point of law constitute a precedent.

Precedents may only be created by courts high enough in the institutional hierarchy to constitute **courts of record**. Inferior courts presided over by an adjudicator without formal legal or civil service training (e.g. some Justices of the Peace) were usually not courts of record. Hierarchical and chronological elements helped determine the precedential value of a case. Among courts of record, cases from higher courts had greater authority than those from lower courts. Those from the same jurisdiction as the court deciding a case had greater authority than cases from a neighboring jurisdiction. Cases that were more recently decided had greater authority than older cases. As the apex court for the British Empire, the Judicial Committee of the Privy Council was not bound by its own earlier decisions, or by any other court’s decisions. This rule gave the final court of appeal the power to counteract the more negative tendencies of the precedent system. It gave these courts the freedom to correct a line of precedent that was perceived to be snowballing down the wrong slope.

These are the technical rules of the precedent system, both today and in colonial India. In practice, colonial law was much more an interpretive enterprise than a technical or “scientific” one. Judges used many tricks, including **distinguishing a case**: they argued that the facts of the precedent were different from the case at hand in important ways, and thus that they were not obliged to follow the earlier case. Furthermore, judges sometimes made comments that were incidental or peripheral to the central issue in a case. These comments did not determine the final outcome of the case. Even if the case itself constituted a precedent, these comments were said not to have precedential value. They were **obiter dicta** (Lat. things said in passing). That said, it is possible to overstate the rigidity of the obiter dicta rule. Lawyers and judges in colonial India continually disagreed about what part of a judgment was obiter dictum. And many obiter dicta were subtly picked up and taken to be authoritative in subsequent cases (see note 2 in my "Judging Conversion" article, under "My Publications").

2. **Published Sources: Law Reports, Case Digests, Newspapers & Legislation**

The most obvious starting point for research should be the end point in the public life of a case: the **law reports**. Law reports are legal periodicals that were published every month or quarter for a given jurisdiction. The **Indian Law Reports Bombay series** and the **All India Reports Madras series** are examples of law reports, as are Moore’s **Indian Appeals** and the Calcutta Weekly Notes. Occasionally, a law journal included not only articles, but also law reports. The **Criminal Law Journal of India** and the **Madras Law Journal** followed this model. It is crucial to realize that these legal periodicals contain only a selection of cases decided by the courts. After delivering a judgment, a judge filled out a form indicating whether the case should be published in the law reports, or “reported.” Most cases were not reported, which means that most cases did not appear in the law reports. Only cases considered legally important were recommended for publication in the law reports. Cases that were socially, culturally or politically important, but uninteresting on points of law, were not included in the law reports.
Many historians of South Asia fall prey to what may be called the **codification fallacy**. This is the assumption that because there was no legislation covering an area of law, there was no law governing the subject. In fact, courts decided many cases on subjects for which no legislation was ever passed. In some situations, there was no case law that clearly applied—for instance, where a new technology created legal problems previously unimagined. Even in these situations, judges would look to the case law on an analogous area of law. When judges likened a new scenario to a situation already covered in existing case law, they were **reasoning by analogy**. The result of this method of legal reasoning was that the law never ran out: case law (including English cases) could always be likened to a new fact situation. Case law came before legislation, and **in its absence**. It also came after legislation. Historians often make the mistake of assuming that the passage of legislation was the beginning and end of the story. Before drawing conclusions about the success or failure of a piece of legislation, it is always valuable to assess the rulings that flowed from a particular Act. Did the judges apply the statute in the spirit in which it was intended, or did they pull in the opposite direction? The latter sometimes happened, with judges acting in semi-autonomous fashion, quietly unraveling the work of legislators (see my IESHR article under "My Publications"). Historians may miss the sequels to their legislative stories if they fail to look at post-legislative case law.

Cases that were of social or public interest, but were legally uninteresting, did not appear in the law reports. If following such a case, you should look for **newspaper coverage** instead. Cases were also unreported if they were **settled out of court** before a judgment could be delivered. Newspapers like the *Weekly Rangoon Times and Overland Summary* or the *Times of India* included regular accounts of court proceedings. Occasionally, they included the response of the judge or courtroom audience, details that rarely (if ever) appeared in the law reports. This type of coverage made newspaper coverage unique. For an extensive list of colonial South Asian newspapers, see Margaret H. Case’s *South Asian History 1750-1950: A Guide to Periodicals, Dissertations and Newspapers* (Princeton: Princeton University Press, 1968), pp. 441-503, in addition to online sources like the [Digital South Asia Library](http://www.bl.uk/collections/southasiadigital/) and catalogues like [Worldcat](http://www.worldcat.org) and that of the [Center for Research Libraries](http://www.crl.edu). In Britain, the most extensive collection of English-language newspapers from colonial India are housed at the [British Library’s Newspaper Library](http://www.bl.uk/collections/newspaper.html) at Colindale, which is entirely separate from the [British Library’s main St. Pancras site](http://www.bl.uk/). Collections of newspaper clippings are also held at the British Library ([IOR series L/I/2: Newspaper Cuttings, 1921-46](http://www.bl.uk/collections/indian.html)), and appear—often poorly or not catalogued at all—in private paper collections (for instance, [at the British Library](http://www.bl.uk/) or at the [Nehru Memorial Museum and Library](http://www.nmm.ac.in) in Delhi). The British Library holds the [Indian Newspaper Reports](http://www.bl.uk/collections/indian.html) (1868-1939), which were weekly reports on the Indian press created for the colonial state ([IOR series L/R/5: Compilations and Miscellaneous Records, c.1868-1945](http://www.bl.uk/collections/indian.html)), but these provide only brief summaries, typically on issues of priority to the colonial state. For efficient newspaper research, it is important to have as specific a list of dates as possible. Until these sources become electronic and searchable, visually skimming them will remain a painstaking process. It is easy to miss the story you are looking for even when flipping through a week’s worth of a daily newspaper. To my knowledge, the only relevant newspaper that currently exists in extensive and searchable and electronic form is the *Times of London*, via the [Times Digital Archive](http://www.bl.uk/collections/newspaper.html) (by subscription).
Although most cases were not reported, law reports offered the most extensive published coverage of case law, making them the easiest place for you to start in your search for relevant cases. University and court-based law libraries, along with South Asian law firms, usually have the best collections of law reports. In the UK, the School of Oriental and African Studies (SOAS) library has the best open-stack collection of law reports and law journals from colonial India. The British Library (Asia, Pacific and Africa Collections) also has published law reports (JOR series V/22: Law Reports, 1791-1947) and some journals (JOR series V/25: Other Serial Publications, 1843-1957), but these must be ordered up volume by volume. The process of using law reports takes time and patience. When using law reports, having open-stack access is particularly important, because each case contains references to earlier cases. You will probably want to look up some of these cases, and will find it slow and frustrating to request and wait for each volume at a closed-stack library like the British Library.

How should you locate a case on a particular topic amidst hundreds of volumes of law reports? Each law report series is confined to a particular jurisdiction. The Indian Law Reports Calcutta series covers only cases heard in Bengal Presidency, and moves year by year (i.e. vol.1: 1876, vol.2: 1877, etc.). The Law Reports Indian Appeals cover only cases appealed from British India to the Judicial Committee of the Privy Council. If you are interested in a particular jurisdiction and date (or a relatively narrow time period), it may be feasible to flip through each volume of the relevant series of law reports for the relevant period. Each volume contains a list of cases, organized in alphabetical order by case name with the start page of the judgment (e.g. Saklat and others v Bella p.42). It also lists the same body of cases thematically, or organized by legal topic (e.g. Trusts: construction of temple trust terms—Saklat v Bella p.42). If you are looking for a particular party’s name or a particular South Asian community (among litigants), you may want to skim the list of case names. If you are looking for a particular topic or legal theme, you should use the thematic list instead. Be aware that the themes listed use legal terminology. If you are looking for a case that fell under a particular statute, you may have to look up the name of the Act in the thematic list. For example, a case on the nationalist writings of Bal Gagadhar Tilak is more likely to appear under “Indian Penal Code, s.124a: exciting disaffection toward government,” than under headings like independence, nationalist movement, or even sedition. A legal dictionary from the British imperial setting like Wharton’s Law Lexicon may help you identify appropriate legal terms with which to search the law reports thematically.

If you need to figure out whether a particular piece of legislation governed an issue or case, a textbook on Indian legal history like M. P. Jain’s Outlines of Indian Legal History or A. C. Banerjee’s English Law in India will give you a quick overview of major statutes. Alternatively, you can turn to any of the series that reproduced colonial legislation, also known as statutes or Acts (see section on legislation under “Published Primary Sources” tab). In the UK, SOAS library has the best open-stack collection of statutes from colonial India. In the US, these volumes can usually be obtained at law libraries or through interlibrary loan, located through an online catalogue like Worldcat. An impressive array of colonial statute collections are now available online through the LLMC Digital initiative (Law Library Microform Consortium; by subscription), although they are not comprehensive. Note that legislation was passed at multiple levels for
British India. Empire-wide Acts passed by the imperial parliament in London are available chronologically (mixed with GB-relevant legislation) in series like *The Law Reports: Public General Statutes*. All-India Acts appear in series like *The Unrepealed Central Acts*. Provincial legislation (e.g. for Bombay Presidency) can be found in publications like P. Hari Rao’s *The Bombay Acts*. For other similar titles, see the legislation section under my "Published Primary Sources" tab. At the British Library, *IOR series V/8 (Acts and Codes, 1780-1955)* includes legislation passed by the provincial and central governments in British India. It also includes “British Enactments in force in Native States.” For background materials on debates leading to the passage of legislation, see *IOR series L/PJ (Public and Judicial Department Records, 1795-1950)* at the British Library, via the A2A catalogue. For a complete guide to the India Office Records, see Martin Moir’s *A General Guide to the India Office Records* (London: British Library, 1988).

There is one other place where legislation occasionally appeared in published form. Quite often, textbooks or treatises on particular areas of law reprinted the full text of relevant legislation in the appendix or throughout the main text. These were most often all-India statutes. For instance, the Muslim Personal Law (Shariat) Application Act (XXVI of 1937) appears in Saksena’s *Muslim Law as administered in British India*, while Ranchhoddas and Thakore’s *The Indian Penal Code* reproduces the main text of the IPC throughout its text, with annotations.

What if you have a theme of interest, but no particular jurisdiction or focused period within which to search? In this situation, you should turn to a case digest before searching the law reports. Case digests are books, often multi-volumed, that contain potted summaries of cases, organized by theme. Case digests are limited by jurisdiction and period, but they are much broader in reach than the jurisdictional and date confines of a volume of law reports. For instance, Woodman’s *Digest of Indian Law Cases* contains paragraph-long summaries of cases heard by Indian High Courts and the Privy Council for the period 1836-1900. It will be much easier to look up the relevant legal theme or heading in Woodman’s *Digest* (again, using legal categories and terms), than it will be to go through each volume of the *Law Reports Indian Appeals*, which also contain Privy Council cases, but which move year by year. Case digests offer a quick summary of the issues in a case, followed by the citation.

If you find a case of interest in a case digest, you can then obtain the full published decision by following the citation to the law report series and volume. The citation of a case consists of the abbreviated law report name, volume, and starting page of a case. Occasionally, the year of the volume will also appear. For instance, a citation as listed in a digest could be: *Ardeshir v Mancherji* ILR 15 Bom 326. Expanded, this means that the case of *Ardeshir v Mancherji* will appear in vol.15 of the *Indian Law Reports Bombay series*, starting at p.326. (For more on citation style, see the final section of this guide.) You may need to use a list of law report titles in order to determine the full name of the law report series in a case citation. See my "Citation Abbreviations" tab for a list of the most common abbreviations for colonial South Asian law reports and journals, along with a few British ones. Similar lists for British abbreviations, are available online through the websites of law libraries in the US and Commonwealth, like here and here.
Once you do find a relevant case, you will find the judge's opinion in the published law report. If the case report you are reading refers to an appeal, you may also find the earlier judgment of a judge from the lower court reproduced, preceding the final court’s judgment. Sometimes, the arguments of the lawyers on each side are also included. At the beginning of the case report, you will normally find a paragraph-long summary of the key facts and issues in the case. This is called the headnote. As every law student looking for shortcuts knows, reading the headnote is the fastest way to get a succinct overview of the case. If the first party listed in the case name is the plaintiff (the party who initiated the suit), the last party’s name (following the “versus” or “and”) will be the defendant (the party targeted by the other side’s initiation of the suit). If the case has been appealed, the first party listed will be the appellant (the party who initiated the appeal, not necessarily the original suit), and the other party, the respondent. It is possible that the order of names flips at different points in the case’s progress through the courts. When heard by the first court (AKA the court of first instance), one case was called Narsingh Lalbhai, plaintiff v Bai Jivi, defendant. However, when the original defendant lost and appealed, the case name became: Bai Jivi (original defendant), appellant v Narsingh Lalbhai (original plaintiff), respondent. There may be multiple parties on one or both sides. All of the parties may be named (i.e. Nanabhai v Wadia and Saraya), or not (i.e. Bahadurji v Ydma et al; Rahimtooand others v Katelee). If two cases came to court and turned upon the same legal issues, they may have been “joined.” This means that the court heard them together. Joined cases often clustered around major disasters or crises in which a common set of facts repeated themselves across suits. In some cases, party A sued party B, in response to which, B reciprocated by suing A. These situations are called countersuits, and also appeared together because they involved the same facts and issues. For instance, Nowrojee v Maneckjee; Maneckjee v Nowrojee were decided and appeared together in the same 1856 law report. An example of a single judgment that contained both a countersuit and joined cases is: Matheson v Nath Singh Oil Co.; Nath Singh Oil Co v Matheson; Raja v Matheson.

The earliest published law reports in England and India were privately produced. These series usually included the name of their compiler in their title, for example, Acton’s Reports (for Privy Council cases, 1809-10) or Coryton’s Reports (for Calcutta High Court cases, 1862-3). Where did the published accounts of these cases come from? Law reporters were usually young “briefless barristers” looking for an alternative source of income while launching their careers. They would sit in the courtroom and take notes on the proceedings, often ultimately combining their notes with a copy of the judge’s opinion at the end of the case. In the early period, law reports like Sir Erskine Perry’s Oriental Cases were based upon judges’ own notes (Perry was a judge of the Bombay Supreme Court). The earliest private or unofficial law reports began in colonial India around the 1840s with series like Sudder Dewanny Adawlut Decisions for Bengal, Bombay and the North-West Provinces. Governments soon realized that those who controlled the law reports determined the future understanding of precedents, and this role was too important to be left in private hands. Around the 1870s in British India, the state designated one series—the Indian Law Reports—the official law reports. Often, various law report series would cover the same case, with slight discrepancies between accounts. The designation as official meant that the ILR’s account of a case would trump all others’ in court. Although official and unofficial law report series often published accounts of the same cases, there were many cases that were reported in one series of law reports but not in others. As a
result, it is worth looking at multiple law report series from the same jurisdiction over the same period if you want to capture the maximum number of relevant cases.

Like the history of case law, the history of the legal profession in colonial India is an underexplored area ripe for research. The law reports are a rich source for such work. Each law report volume begins with a list of judges on the relevant bench at the time of the cases reported. They are listed in order of seniority, or in the order in which they were appointed. In the published judgment of a case, the names of the lawyers was usually included at the start or end of the case, as well as throughout the text of the judgment (often italicized), and preceding the lawyers’ arguments (where those were included). In Bombay presidency, at least, solicitors worked in firms and were usually listed in a case by the name of their firm. For example, names like Little & Co., Wadia Ghandy & Co., and Craigie, Lynch & Owen appeared frequently in the volumes of the Indian Law Reports Bombay series circa 1900. Solicitors were also, although less commonly, referred to as attorneys. Clients approached solicitors first. If a legal dispute had to proceed to court, the solicitor would hire a separate lawyer or advocate to argue the case in court. Advocates worked as solo practitioners, often based in the law library of the court in which they practiced. The more prestigious and expensive class of advocates were barristers. They had been trained in London at one of the four Inns of Court, namely Inner Temple, Middle Temple, Lincoln’s Inn, or Gray’s Inn. These Inns kept Admissions Registers and lists of students called to the Bar at the end of their time at an Inn. Admissions and Call entries contained interesting demographic material, including the place of origin of the student, his age, London address, prior degrees, position in the family (i.e. eldest, middle or youngest son) and the name, profession and address of his father. Although most of these registers are published, many have spotty chronological coverage and are difficult to obtain outside of the Inns’ libraries in London. (The exceptions are the Inner Temple’s Admissions Database, 1547-1920 and the R. F. Scott manuscript listing Indians (and others) at the Inns, 1859-1927, both online.) For a compilation of entries on South Asians at three of the four Inns (1861-1947), see my “S. Asians at the Inns” tab. The less prestigious group of advocates were called pleaders. They were trained in India, rather than in London, and were generally South Asian. Although they had lower status and income than barristers, along with fewer court privileges, pleaders’ legal education in Bombay circa 1900 lasted six years—double that of the barristers’ three—and their exam was considered harder than the barristers’.

The law reports are a rich and relatively accessible body of primary sources. Not every law library in the common-law world outside of India will have law reports from colonial India. But at least these sources are published, and can usually be obtained via interlibrary loan. At the time of writing (2010), exciting new initiatives like LLMC Digital are starting to make South Asian law reports available online, although often by subscription only. Websites like Indlaw and Manupatra include some, but not all, colonial law reports; they too are by subscription only. The Sri Lankan government’s LawNet website offers electronic access to Sri Lankan law reports, dating back to the colonial Ceylonese period. In general, though, most law reports from colonial South Asia exist only in physical book form. Many of these books are in fragile condition. Photographing the relevant pages is often less damaging to the book than photocopying them.
3. **Unpublished Sources: Case Papers, Judges' Notebooks, Private Papers & Oral History**

How can you go behind the published law report to obtain unpublished documents pertaining to a case? These materials are hard to find, but can be rich and voluminous, if you do locate them. The easiest starting place is again the law reports. In my experience, there are two types of records for which you can search: case papers and judges’ notebooks. To locate case papers, most courts require the case number, year, and originating jurisdiction. For example, for one 1912 case, you would have to give the following information at a court’s records room: *Jan Mahomed Abdulla Datu and another v Datu Jaffer and others*, Suit No.1021 of 1912, Bombay High Court: Original Civil. How do you find this information? On the published judgment of a case (in the law reports), a case number and year will appear. Usually, this information appears in small print at the bottom or side margin of the first page. It is often linked with an asterix to the names of the parties, or to the headnote. The appropriate jurisdiction of the case should also appear on the opening page of the published case judgment, often as a title above the case name. For Bombay Presidency, at least, cases coming from the city of Bombay were said to fall under the “Original Side” (OS) of the Bombay High Court’s jurisdiction, while those coming from Bombay Presidency outside of Bombay City (the *mofussil*) came under the “Appellate Side” (AS) of the BHC’s jurisdiction. This distinction is a very important one because many courts, including the BHC, have separate records rooms for each side (see below).

In London, the Privy Council Office records are an astonishing archive of underused court records. They consist of the case papers of the *Judicial Committee of the Privy Council* (JCPC), the final court of appeal for the British Empire. The JCPC heard cases in its courtroom on Downing Street in London, where the court continues to hear cases from a curious hodgepodge of vestigial jurisdictions. For a history of the court, see P. A. Howell’s *The Judicial Committee of the Privy Council 1833-1876: Its Origins, Structure and Development* (1976). To use these records, you must be following a case that was appealed to the JCPC. The vast majority of cases never made it that far. That said, for much of the period of its jurisdiction over India, the majority of the court’s imperial case load came from India. By 1949, the Privy Council had handed down roughly 2,500 decisions on Indian appeals. In other words, the Privy Council archive is particularly rich for South Asianists. If you want to find a relevant JCPC case, look through the law reports that cover exclusively JCPC appeals, like the *Law Reports Privy Council* or *Moore’s Indian Appeals*. If you want to search thematically, rather than by jurisdiction and date, start with a case digest that covers only JCPC cases, like compilations by K. N. Annaji Rao, S. S. Halkar, T.V. Sanjiva Row, or A.M. Talbot. For further details, see my “Published Primary Sources” tab. Prior to 2009-10, PCO records were kept at the Privy Council Office on Downing Street in London. To access them, you had to provide the case number, year, and originating jurisdiction of the desired case. At present (2010), the records are being moved to the National Archives at Kew. Once they become available for use, researchers will hopefully be able to locate case papers through more direct means, for instance, by case name or even theme through the National Archives’ A2A online catalogue. Legal historians are awaiting the release of these records with great
anticipation. Collaborative efforts like [this](mailto:sharafi@wisc.edu) led by Nandini Chatterjee at the University of Plymouth promise to put this rich archive to maximum use once it is re-opened.

What if you want to know about all of the colonial appeals that were heard by the JCPC, and not just those reported in the law reports? Prior to the 2009-10 move of these records, a set of case registers sat at the Privy Council Office on Downing Street. These large notebooks listed every appeal that came before the JCPC, giving the name of the parties, originating jurisdiction, case name and year. If these registers become available for use at the [National Archives](https://www.tna.gov.uk), you will be able to do an exhaustive search of all cases coming before the JCPC, from all jurisdictions. This approach would provide the huge advantage of allowing you to sidestep the fact that not all cases were reported in the law reports. By starting with the JCPC register, you would be able to bypass the published law reports entirely. This strategy could also be hugely useful to scholars working on parts of the British Empire other than South Asia, particularly where law report coverage was sporadic and irregular. These registers include appeals from all jurisdictions, allowing a person to skim the list for cases coming from across the British imperial world.

In India, it is possible to find unpublished case papers at courts like the [Bombay High Court](https://www.bombayhighcourt.gov.in) and Allahabad High Court. Using Indian courts for archival research requires time and patience, not only because it usually takes several weeks from your first in-person appearance for research permission to be granted by the court authorities, but also because it takes time and persistence to obtain the right case papers, once you have obtained permission to start work. The law libraries of Indian courts are good places to find published law reports and law journals from the colonial period, but to find unpublished case papers, you will need to look elsewhere within the court complex. Many courts have records rooms. There may be multiple records rooms at your court. At the Bombay High Court, for instance, there is an “Original Side” (OS) records room (for cases originating in Bombay City) and an “Appellate Side” (AS) records room (for cases originating in regions within Bombay Presidency that were outside of Bombay City). Make sure you are asking for the relevant case papers at the appropriate records room. If you ask for the papers of a case falling under OS jurisdiction at the AS Records Room, you will leave frustrated and empty-handed. As noted above, this type of jurisdictional information should appear on the first page of the published law report for your case. Alternatively, you may be able to guess at the appropriate jurisdiction if you know the town or area in which the facts of the case occurred. You will also need the case name, number and year (as described above). Many older records have been moved to off-site storage facilities. If this is the case, you will have an even harder time gaining access to them. Such case papers will probably be effectively unobtainable.

Aside from case records, there is a second body of records that exist in Indian courts. Judges’ notebooks are large, heavy volumes in which each judge wrote notes on the cases he heard, in the order in which he heard them. The most important information you will need here will be the name of the judge who decided your case. Once you have located the notebooks of that judge, you will need to know the appropriate date when the case was heard and/or decided. Note that this is not the year required above for case papers, which is the year when the case was initially filed and given a number (i.e. Case No.18 of 1924). The dates you will need for judgment notebooks will be later than the date in the case’s identification
number. There are several types of judges’ notebooks, including: Judgments, Long Causes, Short Causes and Motions, Appeals, Typed Notes on Evidence, and Chamber Books. Reported cases most commonly appeared in the Judgment and Long Causes notebooks. However, different aspects of cases could appear in several of types of notebooks, so it is usually best to request notebooks of all kinds of a particular judge, and possibly for a particular period. Judges’ notebooks are not necessarily stored in the Records Rooms of the court. They may be stored in bookcases lining a functioning courtroom, for instance. This makes your job both harder and easier. It is harder because you must first find the place where the notebooks are kept. Once you have found this location, however, it can be much easier to get access to the relevant books than in the Records Room. If the books are in a courtroom, you can glance at their covers and spines, and select appropriate volumes to examine. The name of the judge, dates, and type of notebook usually appear on the spine. In my experience at the Bombay High Court, these books are stored in no particular order, so you should try to look through all of them when selecting specific volumes. This task may involve a ladder and huge amounts of dust, so dress accordingly. Be aware that if the books are in a courtroom, you will only be able to gain access at times when the court is not in session. Ideally, you will be permitted to select the relevant volumes and have them delivered to another work place in the court complex where you can read them without disturbing proceedings.

Photocopying or photographing Indian court records is generally not allowed. This means that when planning a research trip to an Indian court, you should expect to spend a good period of time there—ideally three months or longer. First, it may take minimum 3-4 weeks from your first appearance at the court to obtain the permission letter from the court authorities, even if you send your request by mail, in advance of your arrival. You should address your request to the Chief Justice, cc’ing it to the “Registrar, Prothonotary and Senior Master” of the court. You should also be prepared to pay a small hourly research or inspection fee, which will be noted in the court’s letter of permission, and will be payable upon completion of your research. Paying this fee may involve visiting several offices in the court, so you should allow a full day to complete that task. Second, once you start work, you will only be allowed to take notes and not make copies of the relevant records. Gaining access to records at Indian courts takes time and energy, but the richness of the material you may ultimately find can make it worth the effort. If you are looking for a small number of particular cases and want to split your archive time between a court and a state archive in the same region, it may not be worthwhile for you to attempt to use the court at all. The investment of time and energy at the front end of the process is so great that a brief dip into this type of archive makes little sense. However, if you plan to make legal records the focus of your project, and are interested in a broad range of legal themes and players, doing research at an Indian court can be incredibly rewarding and worthwhile.

Very rarely, law firms or litigant organizations like corporations or trusts may have records pertaining to cases with which they were involved. The older and less publicized the case, the less likely any records will exist by this route. However, it is also possible that law firms and other organizations will have rare published histories of their organization, or of the case in question. It is also rare, in my experience, that families will have private papers of ancestors involved in litigation, and that they will be
willing to share these with you. For some reason, the personal papers of colonial judges and lawyers are also extremely rare. The best places to look for such collections are the “Private Papers” collection at the British Library in the UK, and in India, at the Nehru Memorial Museum and Library in Delhi. However, occasionally a small regional archive, corporate archive or specialized institution’s archive will hold valuable private papers. The A2A website and the National Register of Archives are excellent places to search for private papers across UK archives. Both are part of the National Archives’ website (UK). In India, it is worthwhile sending letters and e-mails to universities, schools, corporations, clubs, and local government bodies; community organizations like panchayats, Anjumans, cultural centers, trusts, temples, and cemeteries; and descendants, in an effort to locate relevant people and documents. Putting an ad in a relevant magazine (e.g. for a particular community) can also be an effective way of finding people with knowledge of your cases. It is also useful to remember that it is as important to search for a person’s friends,’ relatives’ and contacts’ private papers, as for the person’s own collection. Letters from your main figure may exist in the collection of the person who received the letters.

Oral history can also be an incredibly rich source of information. Ideally, oral history will be a source of new ideas, explanations and arguments for you. It can also act as a source of inspiration (as can images) during the writing phase. You may be able to follow up on leads given during an oral history interview, finding written documentation that you can then cite. Admittedly, the disciplinary culture of historians is biased against the use of non-written sources. Many historians feel that oral history sources are unverifiable, particularly if you do not record your interviews--and many interviewees are less willing to speak openly if you use of a recording device. There is also the fact that memories become distorted and fade over time. However, it is equally important to acknowledge that for many events and populations, oral history provides the only form of evidence available. The same correspondence strategies that may lead you to private paper collections (above) may also produce contacts for oral history interviews.

It can also be useful to locate an obituary for the historical figure you are researching, for instance, in the Times of London (keyword-searchable online, by subscription) or the Times of India. Obituaries and biographical dictionary entries from colonial periodicals like Who’s Who in India, Burma and Ceylon are the most effective way to learn about historical figures, particularly for people who were moderately but not hugely famous in their own time. Some obituaries end by giving the name of the cemetery in which the person was buried (where that was the relevant form of death rite). Visiting the cemetery may produce interesting material. If you can find the individual’s tombstone, you will have images and if legible, a text. What is more likely is that the tombstone will have been removed, as eventually happens in many cases. If you can locate an administrator at the cemetery, he or she may be able to produce a register with information about the grave. Alternatively, you can write to the local municipal government office that runs the cemetery. They may be willing to give you contact information for the family member whom they contacted when the tombstone was removed. Writing to that person, in turn, may lead you to useful oral history or (more rarely) a collection of private papers. Another idea is to look for letters written to the editor of a newspaper by the historical figure you are following. Often, the person gave an address in addition to his or her name. As unlikely as it may seem, a letter posted to that address may sometimes get a
response—from a descendant or person who still knows the family in question—even after many decades. This is particularly true where the address is a stately home in Britain, or a property in India that has remained in the hands of one family. If you do find a relevant person to interview, consider taking brief notes during such conversations, properly typing them up in greater detail after the meeting. Finally, be sure to investigate whether your institution requires you to obtain human subjects research approval in advance. In the US, such approval procedures can be time-consuming and require planning well in advance of your research trip.

4. Format: Organizing and Citing Cases

You may soon find that you acquire material on cases from many types of primary sources, including case digests, law reports, newspapers, oral history, private papers and rare published accounts like pamphlets. One good way to keep track of your material is to create a central database of cases. For instance, you may want to create an Excel spreadsheet that lists the date of the case; its name; bibliographic information (i.e. citation or information on the source); format and location among your sources (i.e. electronic, paper, etc.); and summary of key points and players. This will provide you with a one-stop-shop that you can keyword-search quickly and efficiently. If you have research funds, you may want to hire a research assistant to create such a database for you. Because case names in colonial India were sometimes listed by the first name of the first party, and other times, by the first party’s last name, and because spellings of the same names can differ between law report series, I find it easiest to list these cases by date, rather than name. There are three potential dates that can be associated with a case: the date of the case number (e.g. Suit No.689 of 1906), the date when the judgment was delivered (e.g. 1908), or the date on the volume of the law report in which the case judgment was published (e.g. Indian Law Reports Bombay Series, vol.33: 1909). Often, the latter two dates are the same, but occasionally, the case will be published a year or two later than the date of the judgment itself. Although the date of the judgment is perhaps the more accurate date to be linked to the case, it is easier for a reader to locate the case if he or she has the date of the relevant law report volume. For verification purposes, in other words, the date of the law report volume is the most useful date to use.

Cases are referred to in standard citation format, as noted above. The standard format is to italicize the name of the case, but not the name of the relevant law reports, for example: Asma Bibi v Abdul Samad Khan ILR 32 All 167. If you are citing a page part way into the case report, the standard mode of citation is to give both the start page and the page of your reference, for instance: Asma Bibi v Abdul Samad Khan ILR 32 All 167 at 169. Occasionally, historians cite cases in incomplete, non-standard form, omitting the name of the case, or failing to include the jurisdiction as a part of the full name of the law reports (i.e. Indian Law Reports, as opposed to Indian Law Reports Madras series). If you want your work to be read not just by historians, but also by lawyers, you should understand and use standard citation format. That said, standard citation format also leaves out information, namely the end page of the judgments, and the year of the volume of law reports. The date, in particular, is important information for the reader’s understanding of historical context and the precedential value of the case. Going beyond standard form, a more complete form of citation for the above case would be Asma Bibi v Abdul Samad
Khan ILR 32 All 167-171 (1910). Note that the year is the year of the law report volume (1910), and not the date when judgment was delivered in the actual case (1909).

The body of electronic sources on South Asian legal history is growing every day. Hopefully, it will eventually make many of the processes described here unnecessary. Even before then, though, I hope that more researchers will turn to colonial South Asian legal history with the enterprising spirit that it deserves. Case law, in particular, is a gold mine for historians.

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