

Ocean of Law: Intermixed Legal Systems across the Indian Ocean world

Leiden University, 7-9 December 2015



THE MOBILITY OF LAW across the Indian Ocean world is a relatively new field of research. Recent studies have greatly added to our knowledge of the cultural mechanisms of law within or beyond imperial and colonial structures in early-modern and modern times. The international conference 'Ocean of Law: Intermixed Legal Systems across the Indian Ocean world, 1550-1950' that we organized at Leiden University in December of 2015 brought together scholars from different fields and disciplines, interested in the cultural mobility of law.

The three-day-conference was generously funded by the Leiden University Institute for History, Leiden University Centre for the Study of Islam and Society (LUCIS), Asian Modernities and Traditions (AMT), Leiden University Fund, and the journal *Itinerario*.

The first day of the conference started with a keynote speech by Prof. Paul Halliday (University of Virginia) who pointed out the importance of the tension between legal formalism and 'longing for certainty' on the one hand, and the uses of legal pluralities and the uncertain practice of law on the other. The second keynote speech, delivered by Prof. Engeng Ho (Duke University and National University of Singapore), demonstrated the cross-cultural specificities and hybridity of law in the making of Indian Ocean communities, especially that of Islam.

The eight panels spread across three days were chaired by Nira Wickramasinghe (LIAS), Petra Sijpesteijn (LUCIS), Egbert Koops (Leiden Law Faculty), Adriaan Bedner (Van Vollenhoven Institute), Jos Gommans, Manon van der Heijden, Esther Zwinkels, and Alicia Schrikker (all from the Leiden Institute for History). No particular themes were given to the panels, as all papers were closely connected to each other. We only kept a macro- and micro perspective in arranging the panels.

Many of the presentations and resulting conference discussions turned out to focus on the spatialization of law rather than on developments in time. In this spatial context, the papers explored the encounters of legal traditions, which often travelled long distances (by textual genealogies or personal encounters) and the consequences of this for the development of local practices and legal pluralities. Theoretical frameworks and approaches originated from such diverse fields as law, history, area studies, philosophy, literature, and Islamic studies.

Looking at the English legal device 'Power of Attorney' and its Dutch equivalent *volmacht*, Nurfadziah Yahya (National University of Singapore) demonstrated how the British, Dutch and Islamic legal systems were intertwined by the Arab merchants of Southeast Asia. Similar to this re-articulation and exploitation of changing law in Southeast Asia, Joel Blecher (Washington and Lee University) explained how the hadith-scholars from nineteenth-century India responded to the changing legal administration under the British rule. He analysed the different interpretations proposed by the Muslim scholars, taking the case of discretionary punishment. Mahmood Kooria (Leiden University) subsequently took the case of adultery from the Moghara

Code of the Dutch East India Company (VOC) in 1750, juxtaposing it with the Islamic and Javanese legal texts in order to question the legitimacy of assumed 'Muhammadan law-book'. The Dutch scholarly attempts to construct a *Shāfi'i* law canon since the mid-nineteenth century were also discussed in the contribution by Léon Buskens (Leiden University), who surveyed numerous handbooks and translations produced by Dutch professors.

An earlier case of Islamic legal pluralism as expressed through the trajectory of *Shāfi'i* school was presented by Fachrizal Halim (University of Saskatchewan), who argued that the canonisation of the school happened later than was previously thought. He looked at the works of Yahya al-Sharaf al-Nawawī, who lived not so long after Gratian, the canonist. Taking the examples of canonists like Gratian and Islamic scholars together with early modern Protestant authors, Gijs Kruijtzter (Vienna University) illustrated the commensurability and shared routes of legal encounters between the Islamic and Christian worlds. Stewart Motha (University of London) presented the symbols and banners of sovereignty in which sovereign solitude (like the fantasy of 'No human footprints') is a recurrent theme in law's archives as it is exemplified in a series of cases from the Chagos Islands. In a similar vein, Seán Donlan and Mathilda Twomey (University of Limerick) demonstrated the legal *métissage* of the Seychelles, which once were uninhabited and thus lacking an 'indigenous' legal system.

The continuity in legal administration of Java between eighteenth and nineteenth century was articulated by Sanne Ravensbergen (Leiden University). Looking into criminal justice, she argued that there was continuity in the practices of law despite repeated attempts to alter the system. Elizabeth Lhost (University of Chicago) focused on the discontinuity in the functions of *qāḍi* under the British rule of Bharūch in the nineteenth century. Nadeera Rupesinghe (Leiden University) articulated the everyday lives of pluralistic law introduced by the Dutch in eighteenth century Galle where the Dutch legal regime had to encounter not only acceptance, but also rejection and manipulation. Similar cases of rejection of and resistances against Islamic law were portrayed by Kirsty Walker (Harvard University) by focusing on moral policing cases from early-twentieth century British Malay related to *khalwat* (illicit intimacy). Nathan Perl-Rosenthal (University of Southern California) also presented the everyday intersections of law by offering a compelling case related to the pillage of British East Indiaman *Osterley* at French Mauritius.

Such issues of maritime law had a long history. Hassan S. Khalilieh (University of Haifa) examined the influence of Prophet Muhammad's and Quran's conceptions of freedom of navigation and free sea on the early modern approaches of Southeast Asian Muslim rulers towards the sea. Arthur Weststeijn (Koninklijk Nederlands Instituut te Rome) spoke about the possibility of provincializing Grotius in the historiography of international maritime law by looking at a Malay treatise titled *Tāj al-Salāṭīn* of Bukhārī al-Jauharī, a contemporary of Grotius. The reflections on the maritime laws with regard to piracy and pirates and the literary

representations were taken up by Stephanie Jones (University of Southampton). Investigating voices of dhow-captains involved in the Muscat Dhows Case between 1890 and 1905, Fahad Bishara (College of William and Mary) demonstrated the complications of patronage regimes in the competing and multiple legalities of the Indian Ocean. Nikitas Hatzimihail (University of Cyprus) presented the ways in which hybrid legal traditions of this oceanic rim crossed its boundaries to the Mediterranean world. He took the case of Indian Penal Code of the colonial British Empire and its 'new life' in the judicial administration of Cyprus.

Renisa Mawani (University of British Columbia) followed the multi-dimensional journeys of Gurdit Singh who cut across many imperial regimes in the early twentieth century. Although he was outlawed by the British colonial authorities, he used the same imperial legal structures to fight his case against the racial injustice and for the independence. The collaboration between Dutch and Indian officials and brokers in the seventeenth-century legal space in Bengal was dealt with by Byapti Sur (Leiden University). Taking two cases from the VOC archives, she questioned the monolithic categories, such as Asia and Europe, dominant in the early modern historiography. Similarly, Guo-Quan Seng (University of Chicago) demonstrated that the prevalent Sinologists' translations of legal practices never satisfied the ground realities of jurists. He articulated this argument based on an investigation of Chinese women's inheritance rights in Java between 1862 and 1892. In British Malabar too, the misunderstandings and contradistinctions between the dominant *Hanafi* school of Islamic law and the ground reality of *Shāfi'ite* textualism created hassles for the early colonial administration, as argued by Santhosh Abraham and Visakh Madhusoodanan (Indian Institute of Technology Madras). Naveen Kanalu (University of California, Los Angeles) elucidated on an earlier South Asian legal devise of *firman* and its genealogy, function, and transformation in the Mughal administration, especially in the Deccan region.

After the panels, the conference concluded with a roundtable moderated by Carolien Stolte (Leiden University, Managing Editor of *Itinerario*). Major themes and issues that had come up both in the keynote speeches and presentations – such as texts and translations, cross-cultural hybridity and pluralistic practices – were discussed once more. In the ensuing discussion, participants responded to the possible unique characteristics of 'Indian Ocean Law' with regard to its many cross-cultural and transregional intermixtures of legal systems, as discussed across the presentations. The three-day event was extremely enriching to our knowledge of global legal historiography, especially with regard to the Indian Ocean world. The presentations' emphasis on spatial mobilities and hybridities of law was substantially supported through the interdisciplinary focus of the conference. We are planning to bring out a special issue of *Itinerario* as its proceedings.

Mahmood Kooria and Sanne Ravensbergen,
Leiden University Institute for History.