

African jurists in Asia: Premodern Afro-Asian interactions

'The Indian Ocean Muslims' have contributed to the synthesis of Islamic history for over a millennium, but their roles have been continuously downplayed and disregarded in the historiography. Indians [*al-Hindīs*], Malays [*al-Jāwīs*] and Swahilis [*al-Zanjīs*], in South and Southeast Asia and East Africa respectively, interacted across the Indian Ocean highway and all shaped Islam in their own ways. Only a small number of people actually voyaged overseas physically, but they were all influenced by the ideas brought in by those who did. The history of Islamic law in the Indian Ocean world tells us the story of this general pattern of mobility across communities, doctrines, texts, sources, places and periods. In this essay, I explore the Africans who worked in South and Southeast Asia as judges, jurists, scholars and preachers in premodern period.

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THE ARABS AND PERSIANS played an inevitable role in circulating certain basic ideas of Islam, but they did not 'export' Islamic law to 'the peripheries' as many studies of Islam in the Indian Ocean littoral have illustrated by ignoring the African and Asian contributions.¹ The making of Islam in the littoral has always been a rather complex process with active involvement of people with diverse ethnic, linguistic, and regional backgrounds. Once introduced to Islam, the Indian Ocean Muslims formulated their practices in constructive and creative ways and transferred their conceptualizations to other places and people. The stories of several African and Asian scholars working in South, Southeast Asia and East Africa in premodern centuries still remain untold.

This brings us to another gap in the literature: the ways in which Africans in Asia have been discussed. Most studies present them as slaves alone, especially the growing literature on slavery in the Indian Ocean world, and neglect their socio-cultural functions outside the strict contemporary conceptions of 'slavery'.² A few literatures of political-military histories have analysed the military and administrative functions and struggles of many Africans, yet their intellectual contributions have yet to be acknowledged.³ Against this background, I explore the Africans who worked in South and Southeast Asia as judges, jurists, scholars and preachers.

Before moving on, a short note on the period and sources: although my larger project is to explore Islamic legal history in the premodern Indian Ocean world since its formative stages through comparative and connected histories of Arabs, Asians and Africans, this paper focuses on a period between the twelfth and fifteenth centuries. Before the twelfth century, we rarely have any references on African-Asian intellectual interactions, whereas the situation dramatically changes by the sixteenth century with an unprecedented rise of African political and military elites in Asia, such as the Abyssinian kingdoms of Bengal and Janjira. By the second half of the sixteenth century, their number and influence increased even more through figures like Malik Ambar. In order to analyse their implications on, contributions to, and administration of legal systems, much space and time is needed and I hope to take it up elsewhere. The centuries from the twelfth to the fifteenth century thus provide a small prelude to a larger phenomenon of the African intellectual contributions to the making of Islamic law in South and Southeast Asia. My major sources are travel accounts, *tārīkh* literature, *ṭabaqāt* literature and inscriptions. In terms of geography, I focus on the South and Southeast Asian coasts of the Indian Ocean.

A jurist and an agent

One important but largely neglected community that contributed to the making of Islamic law in the Indian Ocean rim is that of scholars from the Swahili Coast in East Africa. The coast as such has been neglected in the Indian Ocean historiography, despite the ocean once being identified as the African Ocean, the Zanj Ocean and the Abyssinian Ocean [*Baḥr al-Zanj*; *Baḥr al-Ḥabashī*]. Nearly two decades ago Chandra De Silva endeavoured to deconstruct this negligence by demonstrating how and why the African coast was side-lined by early European commentators and later by Eurocentric historians. He also pointed out the contributions of the local East African communities to the oceanic world in the fifteenth and sixteenth centuries.⁴ This case is not presented differently in Islamic historiography where scholars make blanket generalizations that almost all prominent traders, brokers, and scholars in East Africa were Arabs and Persians. In Islamic legal history in particular, although it is difficult to distinguish local Swahili from premodern sources, some scarce but crucial remarks about geographical or familial affiliations or skin colour do provide us with a stepping stone towards further enquiries about their juridical engagements and the implications. On that basis, it is striking to take note of some Swahilis who worked in South and Southeast Asia between the twelfth and fifteenth centuries.

One early reference to a Swahili jurist in South Asia comes from the travel account of Ibn Baṭṭūṭa, a North African who was appointed judge in Delhi, and who wrote in the mid-fourteenth century that he had met one Faqīh Sa'īd from Mogadishu working at Ezhimala (Hīlī) in northern Malabar (southwest India).⁵ According to Ibn Baṭṭūṭa, this Somali jurist had travelled from Mogadishu to both Mecca and Medina, had studied there for fourteen years, and had been in touch with many scholars of the Holy Cities as well as their rulers Muḥammad Abū Numayy in Mecca (r. 1254-1301) and Maṣū' bin Jammāz in Medina (r. 1300-1325). Based on the rulers' regnal years, we can assume that Faqīh Sa'īd studied in Mecca sometime between the late-1280s and 1300, and in Medina between 1300 and 1315. After his education in Hijaz, Faqīh Sa'īd travelled to India and China, but we do not know what sort of jobs he took at the places he visited. He settled down finally in Malabar in a port-town called Ezhimala, which was frequented by several Chinese ships and had a very active religious sphere. It had an important congregational mosque, a madrasa, and an imam and both Muslims and infidels respected the mosque for its blessedness (*baraka*); seafarers used to make plenty of offerings to it before they set out on sail. The mosque had a rich treasury, under the supervision of the *khaṭīb* Ḥusayn. Several students studied at the mosque, and they received stipends from its revenue. It also prepared food for travellers and the destitute in its own kitchen. Faqīh Sa'īd must have arrived there from China through the Chinese ships that frequented the port. In the city, he collaborated with Ḥusayn, possibly the author of *Qayd al-Jāmi'*, one of the first known Islamic legal texts from Malabar.

Ibn Baṭṭūṭa gives only a short description of this 'other African' who had far outshone his own journeys. This likely indicates that Faqīh Sa'īd was not an exceptional case in his time and that there were many Muslim African scholars like him who found their way to Asian Islamic communities in premodern centuries. Immediately after mentioning Faqīh Sa'īd, Ibn Baṭṭūṭa talks about another Malabar port-town called Jurfattan, three leagues from Ezhimala, and he makes a comparative statement on the practice of inheritance law among the Malabar and Sudanis. The context of comparison in the text is interesting as he makes it with regard to an Arab jurist from Baghdad. He writes:

There [in Jurfattan] I met a jurist from Baghdad of high stature, named al-Ṣarṣarī after Ṣarṣar, a place ten miles away from Baghdad on the way to Kūfa. [...] He had a brother in this town with a lot of money which he had asked to give to his young children by will. The deceased person's property was kept in shipload to Baghdad. The custom (*ādāt*) of the Indians is like the custom (*ādāt*) of the Sudan that they do not interpose in the property of the deceased. Even if the person leaves thousands, his property would remain with the leader of the Muslims until the inheritor takes it according to *shar'*.⁶

The motivations behind his comparison of a regional custom in Malabar with the one in Sudan (or broadly 'black Africa', if we follow H.A.R. Gibb's translation) are very intriguing, especially as he says that the property of the deceased person finally reaches the legal inheritor.⁷ This implies that many parts of the Islamic world, probably including his native place in North Africa, did not follow the '*shar'*' mode of dividing inheritance in the absence of an inheritor. Further research is needed to make a conclusive argument, but for the moment suffice to note down the striking similarity in the legal practices of Muslims in Malabar/India and Sudan/East Africa as remarked by a North African jurist who had travelled extensively in Africa, the Middle East and Asia.

Another important East African who worked in South Asia was Yāqūt al-Ghiyāthī from fifteenth-century Bengal. He undertook a challenging project of establishing a law college in Mecca on behalf of the Bengali king, Ghiyāth al-Dīn A'zam Shah (r. 1390-1411).⁸ We do not have much biographical information on Yāqūt outside the details of his journey from Bengal to Mecca and his incredible activities in the city as

told by the Meccan historians. But certainly he was part of a larger Abyssinian community in Bengal in the fourteenth and fifteenth centuries, similar to many more in the whole of South Asia and across the Indian Ocean rim. Yāqūt was well-versed in navigation, administration and diplomacy – a few matters that became very explicit during his Mecca mission. I have written in detail about this fascinating project of legal connections and circulations of people, ideas and money between the Swahili Coast, Bengal and Mecca.⁹

Only to elaborate briefly on Yāqūt, we do not know what his status was in the Bengali royal court. The florid Arabic nouns like *Lu'lu'* [pearl], *Jawhar* [jewel] and *Yāqūt* [sapphire] were given as distinctive names to the black African slaves sold in the Middle Eastern markets, and many of them sustained those names even after their manumission. From the cognomen Yāqūt it is difficult to identify whether he was a slave, freeman, or an agent of the king. The Meccan historian al-Fāsī gives his full name as Yāqūt al-Sulṭānī al-Ghiyāthī, which clearly indicates his bondage with Sultan Ghiyāth al-Dīn A'zam Shah.¹⁰ Furthermore, al-Fāsī praises him by calling him 'janāb al-ālī al-iftikhārī' [his excellency and lord], surely for the ideas and money he brought into Mecca. A'zam Shah assigned him with responsibilities to purchase land, to construct appropriate building for madrasa and to take necessary formal steps in making the *waqf* legally valid. Yāqūt went several steps further by gathering support from many Meccan elites, many of whom he eventually appointed as professors in the madrasa, including the historian and judge al-Fāsī. After accomplishing his mission, Yāqūt commenced his return to Bengal, but died on his way at Hormuz.

The larger network

Yāqūt al-Ghiyāthī and Faqīh Sa'īd are two important yet divergent examples of a larger flow of Africans who participated in the making of Islamic law in premodern Asia. If Sa'īd represents the proper jurists and itinerant scholars, Yāqūt stands for the agents who facilitated the intellectual exchanges. There are many more similar Swahilis who worked across South and Southeast Asia during these periods in different roles and positions. Ibn Baṭṭūṭa, for example, also talks about one 'Abd al-'Azīz al-Makdashawī who worked as the governor of the

Below: *Al-Maqamat*, folio 105. Author: al-Qāsim ibn Alī al-Harīrī al-Basrī. Illuminator: Yahya ben Mahmud al-Wasīti. Bibliothèque nationale de France.

In 1021, an enslaved Ethiopian, Najah, seized power in the city of Zabī. This image represents the slave market at Zabī – at the time the capital of Yemen – in 1237. The illustration is part of "Al-Maqamat" (Assemblies), a genre of rhymed prose narrative. Both the author and the illuminator of this work were born in Iraq.





Left: Al-Maqamat, folio 119v.1237. Author: Abū-Muhammad al-Qāsim ibn Alī al-Harīrī al-Basri. Illuminator: Yahya ben Mahmud al-Wasiti. Bibliothèque nationale de France.

As early as the fifth century Arabs brought Africans to southern Iraq to work their date plantations and salt marshes. During the late ninth century Africans took up arms against the Abbassid slaveholders, taking over several cities. They organized their own state, which had its own standing army, and even minted coins. This 1237 illustration is the work of the Iraqi illuminator Yahya ben Mahmud al-Wasiti.

All images and captions found on the New York Public Library's online exhibitions page: "The African Diaspora in the Indian Ocean World" (exhibitions.nypl.org/africansindianocean)

island Kannalus the Maldives. During Ibn Baṭṭūṭa's visit to the island, this Muslim administrator from Mogadishu "treated me with honour, offered me hospitality and prepared a *kundara* for me" to meet the queen of the Maldives.

Also in the Maldives, Ibn Baṭṭūṭa visited the hospice of Shaykh Ṣāliḥ Najīb at the extremity of the island of Mahal, the seat of the Sultana and her husband, with the captain and Arab judge Ṭsā al-Yamani.¹¹ Andrew Forbes identifies this hospice as the Habshīgefānu Magān ('Shrine of the African Worthy'), built in memory of Shaykh Najīb from East Africa, together with a mosque. Shaykh Najīb travelled in the Maldives teaching Islam to the islanders and died at Karendu Island in Fadiffolu Atoll. The mosque and hospice were located in the precincts of the Lonu Ziyare ('Salt Shrine'), but they were demolished in the early twentieth century.¹² We can discern from the name of the shrine that the Shaykh was from Abyssinia, but it is difficult to make any conclusions about his origin for the want of solid evidence. The Maldives also had a share of African slaves, and seventy of them were bought in, and brought from, the Hijaz in the mid-fifteenth century by the Maldivian king Sultan Hasan III. In an interesting course of events, one of these slaves killed a local Maldivian and the *qāḍī* [judge] ordered his execution, but the sultan instead burned the judge at the stake, if we are to believe the *Ta'riḥ*, one of the early accounts of the history of the Maldives written in the eighteenth century and eventually released in 1821.¹³

We also come across references to some more Abyssinians and Swahilis in the mosque inscriptions of the western and eastern Indian Ocean and one mosque at Calicut is definitely built by a manumitted slave from East Africa. Along with these people, it would be interesting to enquire about the legal affiliations and protections of several other Abyssinian men-at-arms who worked as 'the protectors on this sea' in the Konkan coast and commanders of warships in Barkur who all were Muslims. Together with this, we also need to look at the contributions of several Habashi and Swahili scholars who worked in the Middle East (especially in Yemen and Oman), and who contributed significantly to the analysis and advancement of Islamic law through a potential 'Indian Ocean perspective'.

All these instances demonstrate how mobile these Swahilis were, and that is what makes them a strong part of the Indian Ocean community. As we see in the case of Faqīh Sa'īd and Yāqūt, they all travelled from the East African coasts to faraway

places: from Mogadishu to Mecca and Medina to China to Malabar (as Sa'īd did); from Ethiopia to Bengal to Mecca to Hormuz (as Yāqūt did). The same goes for several other Swahilis in the Maldives. Even if one could argue that Africans like Yāqūt were forced to travel across the seas by their masters or benefactors, and that they did not travel voluntarily, Faqīh Sa'īd, 'Abd al-'Azīz al-Makdashawī, Shaykh Ṣāliḥ Najīb and many more, all travelled for their own interests and benefits. Also, their journeys and stories provide us with a different picture about the Africans in Asia; different from the one we would get in the hitherto literatures portraying them as slaves (with subsequent political or military careers). This picture motivates us to look further into premodern Afro-Asian intellectual contacts across the Indian Ocean world, especially through the contributions by judges, lawyers, teachers, imams, and preachers.

If we discuss African Muslim scholars in premodern Asia, we cannot neglect the North African scholars who transcended the boundaries of the Mediterranean to the Indian Ocean world, even though it is difficult to differentiate their contributions from the existing narratives in Islamic legal historiography, for they are very much visible across the Middle East since the early centuries of Islam. Also, the Arab vs. Berber debate is a rather complicated issue, and this only furthers once we look at the self-identification of a Berber like Ibn Baṭṭūṭa as an Arab during his travels.¹⁴ Leaving aside those issues, here I briefly elaborate on two North African scholars who worked in the Indian Ocean world.

The first example is Ibn Baṭṭūṭa himself. He was appointed by the Delhi sultan Muḥammad Tughluq (r. 1324-1351) as the judge of Delhi. There are not many discussions on his execution of law or his verdicts in Delhi, but the scenario changes once he arrived in the Maldives where he worked as the chief judge for one and a half years. There we get plenty of details about his attempts to change local cultures and systems according to his understanding of Islamic law. After his appointment, he asked the ladies there to cover their bodies and heads, which they refused. The execution of his version of Islamic law was met with various direct or indirect acts of resistance, demonstrating an encounter between an African-Berber/self-identified Arab jurist with the cultures and customs of the Indian Ocean world. Due to his harsh judgements and passing verdict against the Queen's husband, he was forced to resign his position and leave the island.

Another noteworthy North African from the Indian Ocean also came from the Maldives; Abū al-Barakāt al-Barbarī al-Maghribī who has been credited with the introduction of Islam and the Mālikī school of law to the island. He is said to have impressed King Shanurāza and the islanders by getting rid of a virgin-ravishing demon [*Ifrit* from *jinn*], which led them to embrace Islam. Maghribī was greatly venerated and even established a mosque. The people adopted his school of law (the school of the Imām Mālik), and "to this day they continue to hold the Maghribīs in high respect because of him."¹⁵

An Indian Ocean Islamic law?

'The Indian Ocean Muslims' provide a different lens with which to look at Islamic legal history, the continuous negligence of the peripheral Muslims' contributions to the making of Islamic law, and an overemphasis on the Arab exclusivity. I focused here on African scholars who worked in the Indian Ocean rim, who were part of larger Afro-Asian interactions in intellectual, religious and legal realms. What does this emphasis on the peripheral Indian-Ocean Islamic legal cultures mean to the larger Islamic historiography, and why are the interactions among them so important?

'The Indian Ocean Islamic law', as practiced from East Africa to East Asia, is not a mere mimicking of Arab versions of law and religion, rather it is a historical phenomenon of constant efforts among the Swahilis, Jawis and Hindis to rearticulate Islam and its law according to their contexts. The legalistic interactions among these communities through the circulation of scholars and texts since premodern centuries helped them advance their understandings in different ways. The matrilineal system is a best example of this, as practiced among Muslims of Malabar, Sumatra and Mozambique (to name but a few), even though it has been constantly brought to the forefront as a classical example of un-Islamic/syncretic practices of the peripheral Muslims.

Laws pertaining to, for example, matrilineal practices provide an emblematic view of a *universality* of the Indian Ocean Islamic law. Multiple contexts defined multiple characters and routes with outright contradictions. Yet, they all belonged to one legal cosmopolis of Islam; in it the Africans, Arabs and Asians created an equilateral triangle. The duty of a historian is not to disregard their jurisprudential contributions or to pass judgments on them as less Islamic or un-Islamic; rather, it is to try to understand Islamic law the way *they* understood it.

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- 1 See, for example: Wink, A. 1996. *Al-Hind: the Making of the Indo-Islamic World, Vol. 1: Early Medieval India and the Expansion of Islam, 7th-11th centuries*, Leiden: Brill, pp.69-71; On Southeast Asia, see: Arai, K. 2004. "Arabs who traversed the Indian Ocean: The history of the al-'Attas family in Hadramawt and Southeast Asia, c. 1600-c. 1960", PhD diss., University of Michigan, pp.163-165.
- 2 The works of William Clarence-Smith, Edward Alpers and Gwyn Campbell are the best examples. Amitav Ghosh's *In an Antique Land* is an exception to this.
- 3 For example, see Shanti Sadiq Ali. 1996. *African Dispersal in Deccan: From Medieval to Modern Times*, Hyderabad: Orient Longman; Omar H. Ali. 2016. *Malik Ambar: Power and Slavery across the Indian Ocean*, Oxford: Oxford University Press.
- 4 de Silva, C. 1999. "'Indian Ocean' but not 'African Sea': The Erasure of East African Commerce from History," *Journal of Black Studies* 29(5):684-694.
- 5 Ibn Baṭṭūṭa, *Rihlat Ibn Baṭṭūṭa*, edited in 1987 by Muḥammad 'Abd al-Mun'im al-'Uryān and Muṣṭafā al-Qaṣṣās, Beirut: Dār Ihyā' al-'Ulūm, p.572.
- 6 Ibid., pp.572-3.
- 7 H.A.R. Gibb translates the term 'sudān' as 'negros' (from sawdān). This translation cannot be correct as Ibn Baṭṭūṭa was already familiar with the different regions and customs on the Swahili coast before his arrival in Malabar. See Gibb, H.A.R. 1994. *Travels of Ibn Baṭṭūṭa, A.D. 1325-1354*, London: Hakluyt Society, vol. 4, p.810.
- 8 Taqī al-Dīn al-Fāsi, *Shifā' al-gharām bi akhbār al-Balad al-Ḥarām*, edited in 2008 by 'Alī 'Umar, Cairo: Maktabat al-Thaqāfat al-Dīniyya, pp.539-542.
- 9 Kooria, M. (unpublished) "An Ethiopian with an Indian King in Mecca: A Global History of Islamic Law in the Fifteenth Century".
- 10 Ibid., al-Fāsi, p.540.
- 11 Ibid., Ibn Baṭṭūṭa, p.594.
- 12 Forbes, A. & A. Fawziya. 1980. "The Maldives Islands, Indian Ocean, and their Historical Links with the Coast of Eastern Africa," *Kenya Past and Present* 12:15-20.
- 13 Forbes, A. 1980. "Archives and Resources for Maldivian History," *South Asia: Journal of South Asian Studies* 3:70-82.
- 14 On his Berber origin, see Dunn, R. 2012. *The Adventures of Ibn Baṭṭūṭa: A Muslim Traveler of the 14th Century*, Berkeley: University of California Press, p.20; on his self-identification as an Arab, see Ibn Baṭṭūṭa, *Rihlat*, p.522.
- 15 Ibid., Ibn Baṭṭūṭa, pp.589-591.