

## RESEARCH ARTICLE

# Islamic Law in the Maritime World: Malabar and the (Re)formation of Legal Circularities Across the Indian Ocean

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## ABSTRACT

In this paper, I examine the (re)formation of Islamic law in the Indian Ocean world with a special focus on the legal exchanges centered around the Malabar coast in the Western Indian Ocean. In this study, I evaluate the location of Islam in the Indian Ocean in the broader intellectual and cultural map; the distinctive features of the periphery of this oceanic region, particularly Malabar; and the general characteristics of Islamic law that was formulated in a diverse social and political imaginary of this littoral area. In conclusion, I clarify the relevance of law in the discussion of Islam and Muslims in the Indian Ocean world.

**Keywords:** Indian ocean, Islamic law, peripheriness, monsoon Islam, Muslim minority, littoral states

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Received: 19 May 2021; accepted: 16 Sep 2021; published: 15 October 2022

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**Cite this article as:** Pattasseri, N. (2022). **Islamic Law in the Maritime World: Malabar and the (Re)formation of Legal Circularities Across the Indian Ocean**

*Astrolabe: A CIS Student Research Journal*, (4)

<https://www.hbku.edu.qa/sites/default/files/islamiclawmaritime.pdf>

## INTRODUCTION

Twenty-three-year-old Hafizuddin Hakim was distressed at calling birthplace Kerala, a state in South India with a lot of greenery and beauty, “God’s Own Country.” In 2016, he left his hometown upset with the “un-Islamic” habitat found in his surroundings. After a few days, Hakim’s family got a message that their son had reached the “Islamic destination” in Syria to join the newly established radical Islamic movement, Islamic State for Iraq and Syria/Levant (ISIS/ISIL) and fight against the world’s infidels. A year later, a report in the *India Today* magazine claimed that around 100 people had left India to join ISIS. Recently, with reference to the UN report on terrorism, the *Economic Times* observed that there is a “significant number” (around 150–200) of Muslim youth leaving India to join various terrorist and extremist organizations and participate in the holy war known as jihad. There are various news reports, documentaries, and studies that have been published about this trend among the Muslim youth in Kerala.

The youth from Kerala joining the various terrorist groups share some common features, including:

- i. they firmly believe that their home country India is not Islamic, and therefore, one cannot live there as a “perfect Muslim;”
- ii. migration (*hijrā*) from a non-Muslim state to an Islamic state is compulsory for all Muslims living in places like India; and
- iii. *jihad* against non-Muslim states and people is essential to rebuild the disintegrated Islamic state (*khilāfa*).

In addition to the reports and debates on the migration of Muslim youth to terrorist hotspots in the Middle East and their joining global terrorist organizations, there has been a report about the existence of an “Islamic village” in Kerala. The alleged place was Athikkad in the Malappuram district of Kerala. This Islamic village consisted of many families that had relocated from different urban and rural spaces in Kerala. They had intended to build an “Islamic habitat” in the state to live a “complete Muslim life.” Hence, they constructed their own masjids, schools, residences, and commercial centers. Gradually, they decreased their dependence on outsiders and lived their religious life in a separate location.<sup>1</sup> According to the Indian journalist, Stanly Johny, Muslim youth missing since 2016 were closely associated with global radical Salafist ideologies and were influenced by puritan Islam that propounded that secular and non-Muslim places were evil capitals.<sup>2</sup>

Why do these Muslims of Kerala think of and long for an “Islamic landscape” in the Arab-Islamic Middle East? Is it impossible to lead a religious life in non-Arabic and non-Islamic social and political contexts? These are the questions that pushed me to study the functions of Islamic law in a non-Middle Eastern, non-Arabic, and non-Islamic social context. I will argue here that the Indian Ocean has been a space of exchange, whereas

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1 “‘Significant Numbers’ of ISIS Terrorists in Kerala, Karnataka: UN Report on Terrorism,” *The Economic Times*, July 26, 2020; “About 100 People from Kerala Joined ISIS over the Years: Police,” *India Today*, November 11, 2017.

2 Stanly Johny, *The ISIS Caliphate: From Syria to the Doorsteps of India* (Bloomsbury Publishing, 2018).

the western part of the Indian Ocean world has a diverse nature from its counterparts in the Middle-Eastern Arab-centric Islamic world. Therefore, the law and religion that formed among these people also have certain distinctive features. The people, ideas, culture, and commodities played a central role in making this oceanic world a unique unit of life, and Islamic law is one of the central features that shaped the Indian Ocean with more settled regulations.

### The Indian Ocean: Place and People

The area of the Indian Ocean has been a disputed issue for many years. There are numerous debates on the exact geographical location of the Indian Ocean. Relying on various historical accounts on travel and transportation through this region, Edward A. Alpers defined the ocean as a connected geographical location between Asia and Africa. He said,

The simple answer is that it encompasses everything from the Cape of Good Hope into the Red Sea, across to the South China Sea, and down to Australia; but as one begins to think about the Indian Ocean as a historical region, it is useful to keep in mind that both the reality and the idea of the Indian Ocean have changed over time.<sup>3</sup>

It has also been considered as one of the oceanic divisions situated between Asia to the north, Africa to the west, Australia to the east, and Antarctica to the south. There are several marginal seas in it. They are the Red Sea, the Persian Gulf, the Arabian Sea, Andaman Sea, the Gulf of Aden, the Gulf of Oman, the Bay of Bengal, and the Great Australian Bight.<sup>4</sup> The Indian Ocean's northern frontier, the Indian Subcontinent, divides the Ocean into two parts: the north-western side by the Arabian Sea and the north-eastern side by the Bay of Bengal. The region that consists of the Indian Ocean and its hinterland is known as the Indian Ocean world. Historically, this Indian Ocean world has been known as the birthplace of the first "global economy," the pre-modern version of "globalization," and an early "cosmopolitanism" in the medieval world.<sup>5</sup>

People living in the Indian Ocean world started navigating in 5000 BCE. Many archaeological excavations along the littorals of the Indian Ocean justify this notion of early navigation.<sup>6</sup> Geographically, a continent consists of mountains, rivers, plains, and forest; whereas an ocean comprises wind, waves, and currents. Unlike land travel, oceanic travel is determined according to the nature of these components in water. People traveled across the Indian Ocean world in response to such climate changes at different times. The consistent travel across the ocean for various purposes such as trade, propagation, and sightseeing enriched the region as a global center for knowledge and economy.

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3 Edward A. Alpers, *The Indian Ocean in World History (New Oxford World History)* (Oxford; New York: Oxford University Press, 2014).

4 Joseph R. Morgan, Viktor Filipovich Kanayev, and Philomene A. Verlaan, "Indian Ocean," in *Britannica Academic* (Encyclopædia Britannica, April 2021).

5 Sugata Bose, *A Hundred Horizons: The Indian Ocean in the Age of Global Empire* (Cambridge, Mass: Harvard University Press, 2006).

6 Alpers, *The Indian Ocean in World History*.

The travel across the Indian Ocean was based on seasonal changes in the ocean. Most of the travel took place during the monsoon season. The climatic conditions in the ocean varies with the season; the first season is from November to January, when high-pressure winds blow across the Asian continent, and dry winds blow from Arabia and western India across eastern Africa, crossing China towards Southeast Asia. This is the north-eastern monsoon, which helps the movement of ships around the Indian Ocean, especially from the north to the south and the South China Sea. This is the best season to sail to the Red Sea and the Indian Coast from the eastern part of the Indian Ocean. The second monsoon season is from April to August, when the abovementioned process happens in reverse order. The southern hemisphere blows the heavy wind across the north. The southwest monsoon is the most fruitful time for farmers in South Asia and Southeast Asia when they receive heavy rains. In this season, the wind blows strongly, mainly during June and July, and traveling is difficult. As a result, many ports in western India and western Malaysia are closed during this time. However, Arab travelers would choose the southwestern monsoon (*mawsim al-kaws*), which begins in March and ends in May, to travel to the East African Coast and Malabar.<sup>7</sup> The continuous travel and crisscrossing based on seasons worked as a catalyst for the development of the Indian Ocean world.

Muslims reached the southern part of the Arabian Peninsula by traveling through land, whereas their travel across the Indian Ocean world was via sea. Arabs comprised one of the significant traveling communities of the Indian Ocean world. They traversed the ocean even before the advent of Islam in Mecca in the century and continued their travels after their conversion to Islam as well. The converted Arabs traveled to the coastal regions of the Indian Ocean for trade and religious propagation. The historical accounts testify that within less than a century after the advancement of Islam in Arabia, Muslims had dominated more than half of the maritime world. The eastern, western, and southern parts of the Mediterranean were entirely under Muslim rule, while some parts of the Red Sea, the Persian Gulf, and the Indian Ocean were also under Muslim control during this short period.<sup>8</sup> During their commercial ventures, they approached local communities in littoral regions, both with commodities as well as faith. Consequently, non-Muslims started converting to Islam, and Muslims became a larger religious community in the Indian Ocean world.<sup>9</sup> Muslims in the Indian Ocean world led the trade and even ruled different areas of the Indian subcontinent.<sup>10</sup> The later development of Islam in the Indian Ocean world is associated with the mobility of people and the circulation of ideas during different seasons across the ocean. Trade was the central focus of this mobility and circulation. However, Muslims also traveled for tourism and the Hajj pilgrimage in Mecca. The 14th century Moroccan traveler, Ibn Battuta, has been known as the “tin opener” of the Indian Ocean world owing to his multi-faceted role in different parts of the Muslim world,

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7 Sebastian R. Prange, *Monsoon Islam: Trade and Faith on the Medieval Malabar Coast* (Cambridge: Cambridge University Press, 2018).

8 Hassan S. Khalilieh, *Islamic Maritime Law: An Introduction* (Leiden: Brill, 1998).

9 Milo Kearney, *The Indian Ocean in World History* (London; New York: Routledge, 2004).

10 Michael Pearson, *The Indian Ocean* (London; New York: Routledge, 2010).

especially in the hinterlands of the Indian Ocean.<sup>11</sup> The merchants and sailors developed new maps and constructed new types of dhows for sail.

Malabar was one of the essential nodal points for Indian Ocean travel. Due to its geographic specifications, it allowed travelers to have a halting station during their long journey across the Ocean. There were many ports in the western coastal regions of the Indian subcontinent. However, the southwestern ports, especially the Calicut port in Malabar, were crucial locations for traders and other traveling communities in the Indian Ocean. Early travel accounts of famous Arab and European travelers have noted the importance of Malabar ports in the Indian Ocean world. The Moroccan traveler, Ibn Battuta (d.1369), and the Portuguese traveler, Duarte Barbosa (d. 1521), have written extensively about the people, trade, and customs on the Malabar coast. Pepper was the major commodity of trade that attracted Arabs and Europeans to Malabar.<sup>12</sup> It was known as the “black gold” among traders, and Malabar produced the commodity in large volumes to be exported to different parts of the world. There were also several other commodities transported from and to Malabar, as is clear from Barbosa’s description of the littoral’s brisk trade. According to the Portuguese traveler:

Merchants on the Malabar coast took on board goods for every place, and every monsoon 10 or 15 of these ships sailed for the Red Sea, Aden, and Mecca; where they sold their goods at a profit, some to the merchants of Judah, who took them on thence in small vessels to Toro; and from Toro, they would go to Cairo, and from Cairo to Alexandria, and thence to Venice, whence they came to our regions. These goods were pepper (great store), ginger, cinnamon, cardamoms, myrobalans, tamarinds, precious stones of every kind, seed pearls, musk, ambergris, rhubarb, aloes-wood, great store of cotton cloth, and porcelains. Some of them took on at Judah, copper, quicksilver, vermilion, coral, saffron, colored velvets, rosewater, knives, colored camlets, gold, silver, and many other things which they brought back for sale in Calicut. They started in February and returned in the middle of August to the middle of October of the same year. In this trade, they amassed a lot of wealth. On their return voyages, they would bring with them other foreign merchants who settled in the city, and started building ships and to trade, on which the King received heavy duties.<sup>13</sup>

The region of Malabar was prosperous due to the cultivation of various agrarian products, as well as its recognition as a prominent port of call for various routes emanating from around the Indian Ocean world. The flow of commodities and the mobility of people eventually contributed to the development of new forms of culture, language, and law in

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11 Ashin Das Gupta and M.N. Pearson, eds., *India and The Indian Ocean: 1500-1800* (Calcutta; New York: Oxford University Press, 1987).

12 Sanjay Subrahmanyam, *The Political Economy of Commerce: Southern India, 1500-1650*. Cambridge South Asian Studies 45. (Cambridge [England]; New York: Cambridge University Press, 1990).

13 Duarte Barbosa, *The Book of Duarte Barbosa, An Account of the Countries Bordering on the Indian Ocean and Their Inhabitants*, ed. Mansel Longworth Dames, vol. 2 (Hakluyt Society, 1918).

the Indian Ocean world, especially in Malabar. This happened mainly through the hybridization of local customs and foreign practices, global trends and peripheral realities, and mainstream texts and marginal contexts. In short, Islam reached the littoral region of the Indian Ocean through Arab-Muslim travelers, who never strictly imposed the norms that they received from their homeland. Instead, the scholars among them engaged with the local people living under non-Muslim rule and developed a customized law, which was appropriate for the realities of the peripheries of the Muslim world.

### **Itinerary of Islamic Law: From Land to Water**

Islamic law is the code for Muslim life. According to the standard positions in classical legal scholarship in Islam, Islamic normative tradition is originated from God the Almighty and is known as *Sharia*. The Qur'an and the Prophetic tradition are the scriptural foundations of Islamic law. The later canonization of Sharia is known as *fiqh*. Two centuries after Prophet Muhammed, Islamic law developed alongside the geopolitical expansion of Islam and the incorporation of different cultures.

Islamic legal history is a much-debated subject. In a recent article, while considering disputes over the origin of Islamic law, Walter Edward Young opined that:

Certainly, attention must be paid to divergences as well as parallels. Notions that merit attention include those of cross-germination, Islamic juridical pluralism, the determining role of Islamic axioms, the formative dynamic of dialectical disputation, and most importantly, the avoidance of unsupported assumptions and formal/informal fallacies.<sup>14</sup>

Notwithstanding the debate on the origin of Islamic law, it is essential to acknowledge the possibilities of an Islamic normativity after the coming of the Prophet Muhammed to Mecca. The Quran and the prophetic tradition are the foundation of this particular Islamic normativity. The development of Islamic law along with the emergence of four Sunni schools of thoughts, Shāfi'ī, Hanafī, Malikī, and Hambalī, is also from such an Islamic normative framework.

All major scholarship that articulates arguments over the origin and evolution of Islamic law are based on the understanding of Islamic law in the Arab-Islamic world, which is also known as the “center” of Islamic law where “standard” opinions and “mainstream” forms of the law were formed. Almost all studies miss Islamic law as having developed in the “peripheries” of the Muslim world, where “marginal” law was followed since the emergence of Islam in South Asia, Southeast Asia, and East Africa.<sup>15</sup> However, the works of Marshal Hodgson (1974), Azyumardi Azra (2004), Ronit Ricci (2011), Sebastian Prange (2008), and Iza Hussin (2016) initiated the studies of the Muslim periphery using different approaches. Along with the geographical understudy, there has

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14 Walter Edward Young, “Origins of Islamic Law,” in *The [Oxford] Encyclopedia of Islam and Law. Oxford Islamic Studies Online*, May 28, 2014.

15 Mahmood Kooria, *Cosmopolis of Law: Islamic Legal Ideas and Texts across the Indian Ocean and Eastern Mediterranean Worlds* (Leiden: Leiden University, 2016).

also been a temporal imbalance in the antecedent studies of Islamic legal history. A recent study by Ahmed El Shamsy on Shāfi‘ī legal history examined the development of Shāfi‘ī legal tradition in the 10th century, which is the development of Islamic law in its formative period.<sup>16</sup> Mahmood Kooria in his doctoral dissertation has studied the later development of Shāfi‘ī Islamic law, including the circulation of Islamic legal texts and ideas between the Mediterranean and Indian Ocean worlds.<sup>17</sup>

Islamic law became the catalyst for the social and political imaginary of Muslims in the heartland and disseminated beyond that particular space by crossing borders and oceans. Islamic law shaped in the local peripheries, especially where Muslims were under non-Muslim rule, however, was different from that which developed in the heartland of Islam. The Indian Ocean world is one of such peripheries of Islam; and therefore, the Islamic law developed in this region is likely to have differences and dissimilarities considering the diversity in customs and socio-political lives.

### Law in Maritime Space: Conflicts and Reconciliations

Since the eighth century, Muslims had begun to migrate to different non-Muslim regions. There were many historical reasons that prompted the migration from the abode of Islam (*dār al-Islām*) to the abode of infidels (*dār al-ḥarb*). The central reason was the political instabilities in many Arab or Middle Eastern countries and the development of trade and commerce by water. By the 12th century, the vast majority of Muslim populations were living under various non-Muslim regimes that were far from Arabia. Consequently, many Islamic jurists and scholars extensively worked on the theological aspects of the Muslim life in non-Muslim social and political situations. In fact, all the four major Sunni legal schools, especially the Shāfi‘ī and Hanafī schools, supported Muslims staying outside the abode of Islam owing to various reasons, including strengthening the religion in foreign localities.<sup>18</sup>

By the 16th century, the center of Islamic law had begun to shift to various localities. Until then, Islam was centered in Cairo, Khurasan, Baghdad, Damascus, and the religious capital, Mecca.<sup>19</sup> When scholars from South Asia, Southeast Asia, and East Africa began to engage with and counter the Arab-Islamic-centric Islamic accounts, they came to produce various legal accounts that often contradicted the Arab-Islamic-centric Islamic law books. This process can be called “peripheralness” of Islamic law, wherein regionality and customs were taken into consideration for legal procedures.<sup>20</sup> All juridical functions in Islamic law work according to diverse historical specificities;

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16 Ahmed El Shamsy, *The Canonization of Islamic Law: A Social and Intellectual History* (Cambridge: Cambridge University Press, 2013).

17 Kooria, *Cosmopolis of Law*.

18 Khaled Abou El Fadl, “Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from the Second/Eighth to the Eleventh/Seventeenth Centuries,” *Islamic Law and Society* 1, no. 2 (1994): 141–87.

19 C. Snouck Hurgronje, *Mekka in the Latter Part of the 19th Century: Daily Life, Customs, and Learning. The Muslims of the East-Indian Archipelago*, trans. J.H. Monahan (Leiden: Brill, 2007).

20 Kooria, *Cosmopolis of Law*.

and therefore, peripheralness becomes a common feature of Islamic law in the Indian Ocean world.<sup>21</sup>

Islam formed in the peripheral locations of the Indian Ocean has its own distinctive features and is different from that in the Arab-Islamic world. This particular form of Islam that could be found in Malabar and elsewhere in various littorals of the Indian Ocean has been called “Monsoon Islam.”<sup>22</sup> Muslims who lived in monsoon Asia faced numerous challenges owing to their non-Islamic social and political circumstances and hence began producing their own legal interpretations, which were not familiar to the Muslims in the heartland of Islam. With this kind of legal negotiations, the advocates of Monsoon Islam were able to live a social and political life in a non-Muslim context. Along with the existence of a central classical form of Islamic law, Monsoon Asian scholars envisaged developing standard commentaries, sub-texts, and independent legal opinions based on the experiences of local Muslim lives. To some degree, Monsoon Islam is a product of the tension between Islam in distant and local locations.

The Makhdūm clan was one of the Ḥaḍramī religious scholar families in sixteenth-century Malabar, members of which negotiated with the central Islamic world from the local peripheral realities of Monsoon Asia and eventually helped in the development of a typical Monsoon Islam. Prange considered two texts of the prominent Makhdūmi scholar, Zayn al-Dīn al-Makhdūm II (1531–1583), also known as Makhdūm II, *Tuḥfat al-mujāhidīn* and *Faṭḥ al-muʿīn*. He used the text *Faṭḥ al-muʿīn* as a perfect legal textual arbitrator that dealt with the issues related to commerce, marriage, and other aspects of common life. To Prange, this text played a major role in the localization of Islam, often working as a catalyst for a “glocal” Islam. More than any other legal document in sixteenth-century Monsoon Asia, the *Faṭḥ al-muʿīn* was central in transoceanic network formations, by which a ground was set for Monsoon Islam to be a distinctive character of Islam in peripheries like Malabar. Through this kind of analysis of the members of the Makhdūm clan and their works, Prange determined Makhdūm II’s indigenization phenomenon as the quintessence of Monsoon Islam’s development in the sixteenth-century Indian Ocean world.

Custom (*ʿurf*) and habit (*ʿadat*) played a supportive role in the formation of Islamic law in the Indian Ocean world. Customs relate “more to actions and practices than to thoughts, ideas, or beliefs,” and they encounter with Islamic law in a friendly, accommodative, or combative manner whenever there are disagreements.<sup>23</sup> In contrast to written laws (*lex scripta*), customary laws are historically considered as unwritten laws (*lex non scripta*), which are well versed in a cultural setting through “oral, flexible, anonymous, old, primitive, folkish, peasant-like, and rural.”<sup>24</sup> These customary laws are later inventions in Islamic law, which are relied on mainly to find solutions as per the

21 El Fadl, “Islamic Law and Muslim Minorities,” 141–87.

22 Sebastian R. Prange, *Monsoon Islam: Trade and Faith on the Medieval Malabar Coast*.

23 Ayman Shabana, *Custom in Islamic Law and Legal Theory: The Development of the Concepts of ‘Urf and ‘Ādah in the Islamic Legal Tradition*, 1st ed, Palgrave Series in Islamic Theology, Law, and History (New York: Palgrave Macmillan, 2010).

24 Shabana, *Custom in Islamic Law*.



public interest (*maṣlaḥa*) between legal theory (*uṣūl al-fiqh*) and substantive law (*furū' al-fiqh*). However, customary laws are an abstract tool in Islamic legal methodology. Although jurists have considered local circumstances such as customs and habits, they often did not bother about such exceptions in many places. The Islamic legal texts produced in the Indian Ocean world had considered local customs and cultural practices in their legal works. The fatwa collection of Makhdūm II, *al-Ajwiba al-'ajība 'an al-as'ilat al-gharība*, is one of such legal works that accommodated the local realities in the Indian Ocean world. Such inclusiveness resulted in the customization of Islamic legal ideas, which also extended to the development of Islamic law in a non-Islamic context.

Almost all the littoral regions around the Indian Ocean were under the control of non-Muslim rulers. In Malabar, until the beginning of the 16th century, there were no Muslim kingdoms; all the Muslims in the region were living under various Hindu rulers. In contrast, Arab Muslims, especially those from the Hijaz, Cairo, Baghdad, and Hadramawt, have been considered Muslims in Islam's heartland owing to their socio-political affiliations under the Caliphate. This particular "Muslim" habitat has been known as the "center" of the Muslim world, while its counterpart, viz. the "non-Muslim" habitat has been labelled as the "periphery" of the Muslim world. There is a dearth of scholarly discourse over the issue of the periphery, barring a few exceptions in recent academic studies by select modern scholars.<sup>25</sup>

However, the center and periphery division can be analyzed through three lenses: geopolitics, linguistics, and demography. From a geopolitical perspective, the so-called "center" of Islamic law was under the moral universe and normative framework of Sharia. During the 16th century, the Ottomans, Mughals, and Safavids politically dominated most of the Muslim world. To some degree, these empires established their rules and laws according to Islamic norms. It, however, did not mean that they established a perfect caliphate system as envisaged by Islamic law. In contrast, local regions like Malabar, which were far away from the "center," did not have the shadow of such Islamic moral universe and normative framework. Instead, the Muslims in these regions lived under the sovereignty of non-Muslim rulers, in whose realm the dominant public consciousness was different from that at the "center." A linguistics point of view implies the differences in language. In the "center," Muslims used one of the Semitic languages, such as Arabic and Persian, which have a long tradition of producing abundant scholarship in various Islamic sciences. Therefore, there are many familiar idioms that constitute the "Islamic" for communicating with the people in this "center." In the Malabar periphery, Muslims used the languages of the Dravidian linguistic family; however, Islamic scholarship in these languages was very rare even by the 16th century. The demographic lens refers to the number of Muslim populations in these two diverse spaces. In the center, the bulk of the population was Muslim; whereas in the periphery, the majority was non-Muslim. These aforementioned differences have to be taken into consideration while figuring out the Muslim life and Islamic law in Malabar during the 16th century. This is a land-based

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25 Kooria, *Cosmopolis of Law*.

categorization, although there is another form of considering the Indian Ocean as a single maritime unit. In Makhdūm II's legal works, there are cases specific to the Malabar region.

The differences in the center and the periphery are reflected in the formation and reformation of legal tools in these two regions; however, they do share many common normative features. Along with Muslim traders, many scholars and Sufis traveled across the Indian Ocean.<sup>26</sup> This extensive mobility of scholars and Sufis was subject to new legal forms and orders in the Indian Ocean world. In Michael Pearson's opinion: "The law was the seal of oceanic unity on which the towns thrived."<sup>27</sup>

There were many encounters between different legal forms in the Indian Ocean world. The legal encounter between the European law and the Islamic law was the focal point of various political disputes after the 16th century in the Indian Ocean world. In addition, along with the Muslim presence, Islamic law has played a significant role in shaping the social life in the Indian Ocean world. While the Arabic language was the *lingua franca* of the ocean, Islamic law provided a regulatory legal framework for various disputes in the oceanic world;<sup>28</sup> Islamic maritime law was mainly used to settle various legal disputes in the sea. Muslim jurists applied the custom practice (*'urf*) to engage with maritime law. Early maritime records from the littoral regions of the Mediterranean, the Red Sea, the Persian Gulf, and the Indian Ocean such as jurisprudential queries, the Cairo Geniza documents, early travel accounts, navigational literature, international commercial contracts, and diplomatic treaties show the application of custom practices in various maritime legal disputes by Muslim jurists.<sup>29</sup>

The majority of the Muslims in the Indian Ocean littorals were followers of the Shāfi'ī school of thought. The Muslims in Malabar were known as "Mappilas." They were not a homogeneous community; instead, there were a variety of customs and traditions within the Mappilas. Most of them were either locals who converted to Islam from Hinduism or Arab-Malabar hybrids through marriage.<sup>30</sup> Islam in the Indian Ocean had exchanges with Islam in Yemen, Oman, Bahrain, and Baghdad in contrast to Islam as practiced by Hanafi Muslims under Turco-Persian rule.<sup>31</sup> The flourishing of texts and scholars in the Shāfi'ī school also vindicates the school's dominance in the Indian Ocean world.<sup>32</sup> However, the Shāfi'ī law of the Indian Ocean world has its own indigenous features in contrast to the Shāfi'ī law practiced in the heartland of Islam. The formation of the Shāfi'ī law in the Indian Ocean world is more or less closely associated with the various exchanges and

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26 Anne K Bang, *Sufis and Scholars of the Sea: Family Networks in East Africa, 1860-1925*, 2005; Engsang Ho, *The Graves of Tarim: Genealogy and Mobility across the Indian Ocean*, The California World History Library 3 (Berkeley: University of California Press, 2006).

27 Pearson, *The Indian Ocean*.

28 Alpers, *The Indian Ocean in World History*.

29 Khalilieh, *Islamic Maritime Law: An Introduction*.

30 Sebastian R. Prange, *Monsoon Islam: Trade and Faith on the Medieval Malabar Coast*.

31 Stephen Dale, *Islamic Society on the South Asian Frontier: The Mappilas of Malabar 1498-1922* (Oxford: Clarendon Press, 1980).

32 Kooria, *Cosmopolis of Law*.

encounters with the local practices in peripheral regions. Such a diverse form of Islam in littoral regions has been shaped by legal encounters at different times. The law was also not formed in a single moment and developed over centuries of exchanges and encounters. The spread of Islamic law across the Indian Ocean world was mainly through trade and empire. The exchanges of ideas and people along with commodities made this dissemination easy.<sup>33</sup> In a nutshell, Islamic law is one of the legal forms in the Indian Ocean world, which acted as a creative arbitrator in multiple complexities.

## CONCLUSION

The experiences of Islamic law in the littorals of the Indian Ocean are different from those in the central Islamic heartland in the Arab-Islamic world. Islamic law in the Indian Ocean world is related to the question of Muslim life in non-Muslim contexts. This is because the majority of Muslims living in the coastal regions of the Indian Ocean were the under periphery status owing to their numbers as well as socio-political status. Therefore, they were compelled to follow certain customs as part of local traditions and dominant cultures, which could not be entirely appropriated with the so-called Islamic normativity.

In the case of Malabar, Muslim political affiliation was based on Hindu rule; hence, cultural forms including dress, language, and food were affiliated to the customs followed by the majority of non-Muslim followers. Such a distinctive feature was not similar to the social and political context of Islam in the Arab-Islamic world. Most of the heartlands of Islam came under the Caliphate umbrella; however, some of the Indian Ocean Muslims were out of this particular political affiliation. Therefore, a direct translation of Islamic law was impossible in the Indian Ocean Islam. Scholars and Sufis considered the dilemma of living as a Muslim in a non-Muslim socio-political context, and therefore, started to reproduce Islamic law within the Islamic normative framework developed in the heartland of Islam. These newly developed laws were slightly different or in a different form from the Islamic law as developed in the Arab-Islamic world. However, the shaping of Islamic law in the Indian Ocean world was based on the consistent intellectual and spiritual interactions with the people and ideas of the Muslims and Islam in the heartland of Islam. Thus, these laws were not new, but “recycled” models of the law that was redefined with the support of Islamic normativity. That is why Muslim scholars in the Indian Ocean region regularly connected with Islamic scholarship in the Arab-Islamic world.

The connections, communications, and encounters between the scholarship in the Arab-Islamic world and the littorals of the Indian Ocean led to the development of Islamic law in the Indian Ocean world. The legal texts from this region explicitly show such rich legal conversations between Islam in a non-Muslim context and Islam in the heartland or legal encounters between the central Islamic estate and the local periphery. The Indian Ocean world formed a unique space for the convergence of these two entities.

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33 Fahad Ahmad Bishara, *A Sea of Debt: Law and Economic Life in the Western Indian Ocean, 1780-1950* (Cambridge: Cambridge University Press, 2017).

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Noorudeen Pattasserri graduated from the MA program in Islamic Studies, with a concentration in Islamic Civilization and Societies, from Hamad Bin Khalifa University (Class of 2021). He also holds another MA in Islamic Studies from Calicut University (Class of 2018). Previously, he completed a seven-year program in Islamic law and theology from Jamia Madeenathunoor, a traditional Sunni madrasa in South India; where he read and trained in various classical Islamic texts and received *ijzas*. He regularly writes columns in various Malayalam weeklies and magazines. His areas of interest are Islamic intellectual history, Indian Ocean Islam, law and society, and Islamic civilization. He is currently holding the position of Executive Director of Malaibar Foundation for Research and Development, an NGO based in Kerala for research and cultural activities related to Malabar studies.  
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## ACKNOWLEDGMENT

This paper is an extract from my MA thesis “Islamic Law in the Indian Ocean World: A Study of Zayn al-Dīn al-Makhdūm’s *al-Ajwibat al-‘ajība ‘an al-as’ilat al-gharība*.” Thanks to my MA thesis supervisors, Dr. Frank Peter and Dr. Alexandre Caeiro, for their comments on various versions of this discussion. I am also thankful to Dr. Mahmood Kooria and Dr. Modassir Ali for their critical feedback. To them I owe the strength of this article; its weaknesses are entirely mine.

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