Islamic Law in Circulation

Analysing the spread and survival of Islamic legal ideas and commentaries in the Eastern Mediterranean and the Indian Ocean littorals, Islamic Law in Circulation focuses on Sharīʿa, one of the four Sunnī schools of Islamic law. It explores how certain texts shaped, transformed and influenced the juridical thoughts and lives of a significant community over a millennium in and between Asia, Africa and Europe. By examining the processes of the spread of legal texts and their roles in society, as well as thinking about how Afrasian Muslims responded to these new arrivals of thoughts and texts, Mahmood Kooria weaves together a narrative with the textual descendants from places such as Damascus, Mecca, Cairo, Malabar, Java, Malindi, Aceh and Zanzibar and colonial powers such as Britain, the Netherlands and Germany to tell a compelling story of how Islam contributed to the global history of law from the thirteenth to the twentieth century.

Mahmood Kooria is a researcher at Leiden University (the Netherlands) and a visiting faculty of history at Ashoka University (India). He received his PhD in Global History from Leiden University in 2016. In addition to numerous academic journal articles and book chapters, he has co-edited Malabar in the Indian Ocean: Cosmopolitanism in a Maritime Historical Region (2018) and Islamic Law in the Indian Ocean World: Texts, Ideas and Practices (2022). Currently he is writing a book on the matriarchal Muslim communities in East Africa and South and Southeast Asia.
Islamic Law in Circulation

Shāfi‘ī Texts across the Indian Ocean and the Mediterranean

MAHMOOD KOORIA
Leiden University
Ashoka University
To all the PhD students across the world,
who pursue their dreams with dedication to knowledge
despite the paucity of resources and pressures of various sorts.
May your paths shine ever and may our paths cross!
Contents

List of Figures  page x
Acknowledgements
Notes on Transliteration, Dates and Places

Introduction

PART I
1 Circulation Networks
2 Circulatory Texts
3 Architecture of Encounters

PART II
4 The Code
5 The Commentary
6 The Autocommentary
7 The Supercommentaries
8 The Translations

Conclusion

Bibliography
Index

ix
Figures

Major places mentioned in the book from the Indian Ocean and the Mediterranean

2.1 A genealogical chart of Shāfiʿī texts as prepared by the Yemeni-Indonesian scholar Sayyid ʿUthmān in 1881, Leiden University Special Collections. 81

4.1 Cover folio of an early Minhāj manuscript, Leiden University Special Collections, Or. 2227 137

4.2 A comparable cover of another early Minhāj manuscript, Princeton University Library, Garret 1388Y 138

5.1 Title page and a contents page of the Tubfa, Mecca Library, Fiqh al-Shāfiʿī 83 187

6.1 Opening pages of the Fatḥ, Ponnāνi Jumuʿattu Palla Library MS. 141 240

8.1 Cover pages of the Javanese translation of the Kitab Toehpah, British Library, MS. Add.12290. 335

8.2 Title pages of some European translations or editions of Shāfiʿī texts 359
Acknowledgements

This book is a product of a journey which has lasted a decade, from the moment I decided to study this topic until it was complete. Several people, places and institutions across many countries have supported me enormously in this long meditation. Words are not enough to thank all of them, but I count it an honour to be able now to acknowledge their unstinting support, even though space restricts me from compiling a full list.

Jos Gommans read many drafts of my doctoral dissertation, which forms the core of this book, and his feedback was exceptionally sagacious. Maaike van Berkel, Léon Buskens, Henri Chambert-Loir, Jatin Dua, R. Michael Feener, Tom Hoogervorst, Iza Hussin, Nico Kaptein, Ronit Ricci, Petra Sijpesteijn and Jan Just Witkam read the dissertation in detail and provided insightful comments for converting it into a book. In addition, Joel Blecher, David Kloos and Nira Wickramasinghe also guided me on the practicalities of writing and publishing this book. Robert Gleave, Engseng Ho, Michael Laffan and Bahauddeen Muhammed Nadwi have been sources of continuous support and have graciously advised me whenever I struggled. Sanne Ravensbergen has always been an intellectual and personal inspiration.

Discussions with Omar Anchassi, Nijmi Edres, Eirik Hovden, Irene Schneider and Knut Vikør as part of the “Understanding Shari’a: Perfect Past, Imperfect Present” (USPPIP) project helped me refine some of my arguments. Philippe Peycam stimulated me to link the research to larger institutional plans and projects. Norifumi Daito, Archa N. Girija, Meera Muralidharan, Byapti Sur and Guanmian Xu were on hand to offer
Acknowledgements

intellectual and emotional support, while Hayat Ahlili, Abdullah Alhatlani, Marcela García Probert, Eftychia Mylona and Tijmen Baarda became great compadres through our shared interests in Middle Eastern history. Abhishek Avtans, Sarthak Bagchi, Murari Kumar Jha and Pralay Kanungo added flavours of camaraderie and nostalgia to the long hours of conversations. Auswaf Ahsan Ophira Gamliel, Abhilash Malayil and István Perczel provided different perspectives to look at southwestern Indic traditions, while Yogesh Sharma taught me about the breadths and depths of Indian Ocean studies, a subject I often continued in seemingly endless chats with dearest Shelly Johny, Rajeeesh Kumar and Abdur Raheef Ottatthingal. Supriya Varma and the late Vijaya Ramaswamy guided me through the different ways of understanding the ancient South Asian past.

When travelling like a nomad in the name of knowledge, many friends welcomed me into their homes, acclimatised me to new terrains and became great company inside and outside academic settings: specifically Dadi Darmadi in Jakarta; Arfiansyah and P. B. Siddik in Aceh; Abdulkader Tayob and Shaheed Tayob in Cape Town; Muhammad Arafath, Annu Jalais, Carola Lorea and Shafeek Hudawi in Singapore; Sayid Muhsin in Kuala Lumpur; Nisa Harun and Jafer Paramboor at Seremban; Sami al-Daghistani and Soraya Batmanghelich, and also Mosarrap Khan and Mary Ann in New York; and Kareem, Fayiz and Abid in London.

Several colleagues and friends helped me obtain crucial materials for this study. In India, Ashraf Thangal Chettippadi, Musthafa Hudawi Aroor, Usman Amjadi, Kasheed Elamkulam and Abdul Samad Faizy helped me locate and access restricted resources at various private collections. In the United Kingdom, Nur Sobers-Khan and Arani Ilankuberan at the British Library guided me towards many rare sources. In Indonesia, Intan Lidwina, Jajang Nurjaman, Oman Fathurahman at Jakarta, and Muhajir Alfarusy and Herman Syah at Banda Aceh showed me ways to access local public and private collections. C. G. Brouwer, the late Emeri van Donzel, Amirul Hadi, Reza Huseini, Ashraf Kadakkal, Sri Margana, Ruud Peters and Hussain Randathani provided or suggested many primary and secondary materials. Jaleel Hudawi Balayil regularly cleared up my doubts related to Islamic law and texts with his vast knowledge of Shafi’i literature. Stephano Joel, René Wezel, Sunarwoto and Syahril Siddik read sources with me in French, Dutch, Javanese or Malay, and Aadil Zubair and Iqra Raza gave cartographic and creative support. In the course of my work I have been privileged to enjoy the support of many dear friends in the Netherlands and India: in particular Abdul Basith, Lennart Bes, Abdullah Edachalam, Aashique Iqbal, Kunhi Kasargod, Manjusha
Acknowledgements

Kuruppath, Sander Lugtenburg, Nandagopal Menon, Yasir P. V., Nadeera Rupsinghe, Umar Ryad, Musthafa, Shahina, Ayyoob Thayyil, Abey Thomas and Brijith Thomas.

Generous fellowships from various sources also enabled me to conduct my research and finish this book: Erasmus-Mundus Consortium of IBIES (Interdisciplinary Bridges for Indo-European Studies), Cosmopolis Programme at Leiden University, USPPIP Project funded by the Humanities in the European Research Area (HERA) and Social Science Research Council’s InterAsia Program. The support I have received from academic institutions has also proved indispensable. In Leiden, the institutes of History and Area Studies, the African Studies Centre, and the International Institute for Asian Studies provided academic homes during and after my doctoral studies. So did the Dutch Institute in Morocco at Rabat, and the Asia Research Institute at the National University of Singapore.

A number of different libraries and archives also facilitated my research during my visits or provided me with digital copies of invaluable manuscripts: British Library and Royal Asiatic Society in London; Government Oriental Manuscripts Library and Research Centre and Madrasa-i Muhammad Library in Chennai; Mappila Heritage Library at Calicut University, the libraries of Tanur, Chaliyam and Ponnani Valiya Jumu`at tu Palli and the Regional Archives of Kozhikode in Kerala; Salar Jung Museum and Library in Hyderabad; National Archives of India in Delhi; Perpustakaan Nasional and Arsip Nasional in Jakarta; Perpustakaan dan Museum Ali Hasjmy and Aceh State Museum in Banda Aceh; Dayah Tanoh Abee in Aceh Besar; libraries of International Islamic University Malaysia and International Institute of Islamic Thought and Civilization in Kuala Lumpur; Leiden University Library and its Special Collections; the National Archief in the Hague; Staatsbibliothek in Berlin; Juma Al-Majid Center for Culture and Heritage in Dubai; King Saud University Manuscript Collections in Riyadh; Masjid al-Ḥarām Library in Mecca; and Bodleian Library at Oxford University.

I have also benefited from the questions and comments I received while presenting parts of this book at various institutions across the world, especially at the universities of Aarhus, Bergen, Bochum, Bonn, Calicut, Cambridge, Chennai, Dar Es Salaam, Doha, Duke, Exeter, Göttingen, Harvard, Hyderabad, Kerala, Oxford, Princeton, Seoul, Singapore and Yogyakarta, and at the institutes or centres in Banda Aceh, Berlin, Frankfurt, Manila, Leiden and Panakkad. The organisers of these events, the discussants, co-panellists and participants have provided constructive

I am indebted to each and every one of these friends, colleagues, mentors, institutions, journals and events for their support, rigorous guidance and encouragement. I am also grateful to the three anonymous peer reviewers who read earlier versions of this book and provided tremendously useful comments. Maria Marsh and Atifa Jiwa at Cambridge University Press have offered unwavering support from the book’s acquisition to its production. I am also extremely grateful to Mervyn Richardson and Joan Dale Lace for their extensive copyediting.

But even with all that support, my work might not have been finished if my Mom Maimoonath and my siblings had not kept encouraging me to take my own path. I always wondered about my mother’s sources of inspiration and enormous courage as she faced lonely struggles in a rural village in Malabar. She was determined to educate all of us at a time when anyone in the area hardly ventured out into the university and she was content for us to go to faraway places while she remained often lonely at home. Words fail me, but from the depths of my heart I thank her, along with Fayiza Aboobacker, who joined me as a fellow traveller in the final stages of this work.

Academic and personal journeys of a doctoral student between the regions now usually identified as the Global South and North are always enshrined in struggles between homelands and new homes, where familiar and unfamiliar words and worlds dance in tandem and the pursuit of knowledge becomes the pleasure of life but also the struggle of existence. Prudent words attributed to the ninth-century jurist al-Shāfiʿī, whose ideas formed the school of thought with which this book engages, resonate with a *kennismigrant* when he says: “The stranger is as fearful as a thief, as depressed as a debtor, as humiliated as a prisoner. When he recalls his folks and his country, his heart flutters like a bird’s wing.” To the struggles of such early pursuers of knowledge in strange situations and distant lands, I dedicate this book.
Notes on Transliteration, Dates and Places

In translating Arabic, Persian and Ottoman Turkish words, I have followed the International Journal of Middle Eastern Studies (IJMES) transliteration system, except for ḏāl (ǳ). For Malayalam, Tamil and Urdu words I have mostly followed the schemes of ALA-LC Romanization Tables. For Arabi-Malayalam (Malabarī), Arabu-Tamil (Arwī) and Jāwī I have mixed the IJMES style for Arabic with that of ALA-LC, identifying the root-language of the words. I did the same for the Malay and Bahasa Indonesia words, except for some commonly used names. I have italicised the foreign terms at their first occurrence but avoided italicisation when those are too recurrent, such as ḥadīth, fuqahā’ and madrasa.

I have given only Common Era years and avoided the Hijri Era for the sake of smooth readability. All dates converted thus have been cross-checked with the Hijri months and years. For a few dates I have depended on secondary sources. If the month of the year is not known, and thus not convertible into a single Common Era year, I have identified the year, qualified as “in or after”.

As this book covers a vast littoral of the Indian Ocean with several subcontinents on its shores, I use the term “South|East” Asia and Africa in order to refer to South Asia, Southeast Asia, East Asia, South Africa, Southeast Africa, Northeast Africa and East Africa, unless I specify otherwise.
Major places mentioned in the book from the Indian Ocean and the Mediterranean.