



## From sea to the shore: Texts, traditions and the maritime practices in the western Indian Ocean, 1600–1800 AD

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### ABSTRACT

When it comes to the maritime history of the Indian Ocean Region (IOR), there are few available textual resources and written pieces of evidence which can help undertake a cogent reconstruction. This article attempts to retrieve some of those maritime practices that prevailed among the mariners and sailors on the basis of a few available written documents, such as travellers' accounts, Mughal court chronicles, European factory records and other written documents. Such historical reconstruction is important since, in the past few decades, the Indian Ocean has become significant object of study in its own right. The article seeks to recover "forgotten" oceanic histories of law or practices in the western IOR, and examine how these got institutionalised as admiralty law in India. More precisely, it focuses on the process of the transformation of maritime law from tradition to admiralty law in some detail.

### KEYWORDS

Indian Ocean; maritime tradition; littoral; Islamic law; admiralty law

## Introduction

The maritime world cannot be viewed in isolation from land-based political formations. Naval campaigns, imports and exports and investments in maritime trade, all constitute the links between land and sea.<sup>1</sup> Hence, when we talk about maritime practices, it is not only about the practices followed at sea but also those that are followed in the littoral and on land. For thousands of years, the Indian Ocean has connected people along its shores in a web of cultural and economic commonalities. M.N. Pearson argues that the occupation and economic forces that govern the life of the littoral people mostly move in an amphibious realm from land to sea, which seems to provide an element of commonality for many who live on the shores.<sup>2</sup> There are also certain languages which provide commonality amongst the populations on the shores. In the middle ages, for instance, it was Arabic that was the medium for communication along the shores in the Indian Ocean realm.<sup>3</sup> Subsequently, with the coming of the Europeans, English, French and Portuguese gained ground in the coastal areas of the IOR. This article seeks to shed light on and discuss those available documented sources which provide an insight into the maritime practices that were followed in the western Indian Ocean in particular, and in the larger IOR in general.

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Patricia Risso opines that maritime history derives much of its substance from commerce and commercial practices.<sup>4</sup> Fahad Ahmed Bishara mentions the existence and use of *waraqas*,<sup>5</sup> which were documents of legal relationship. These documents were nothing less than the legal custom as it was an assurance to the investor. Bishara is also of the opinion that these were laws formed on the basis of ongoing trade and commerce in the IOR before the coming of the Europeans.<sup>6</sup> Therefore, practices of maritime trade and business are also important to understand the reconstruction of maritime practices in the western Indian Ocean.

From the ninth century onwards, Islam made inroads into the Indian Ocean, leading to its commercial hegemony in the IOR by the thirteenth century.<sup>7</sup> Unlike Christianity, whose foremost field of knowledge was theology, for orthodox Islam it was law, thus regulating everything from ritual to contracts.<sup>8</sup> A considerable number of Muslims lived on the coasts of Indian Ocean as traders, travellers, sailors and exiles. There were *qadis* and sheikhs to administer law and justice in societies and settlements along the coasts. According to Mahmood Kooria and Sanne Ravensbergen, Shafi'ism and Hanafi'ism had a role in the oceanic affairs.<sup>9</sup> Hence, the Islamic rules and regulations related to oceanic affairs need to be taken into consideration.

Moreover, the contribution of legal culture to Indian Ocean studies is one of the least focused areas of research. However, careful research enables us to understand that in the Indian Ocean, the ubiquity of law can be seen in every phase of life, ranging from the macro aspects of state politics to micro aspects of everyday lives of ordinary people. For instance, during the Age of Sail, laws were mostly drawn from religious and cultural sources while helping to enable and shape economic relations between different communities.<sup>10</sup> In light of the aforementioned, the article will also discuss various categories of law prevailing in the Indian Ocean in general, and the western IOR in particular, prior to the arrival of the Europeans. It also endeavours to understand how maritime practices in the western Indian Ocean got influenced by the arrival of the Europeans and the changes that followed in the western Indian Ocean political scenario.

## **Maritime practices followed by Indian sailors before the advent of Europeans**

Prior to the arrival of the Europeans and till the end of the sixteenth century, the IOR was a temperate zone in terms of oceanic affairs. Even so, there still existed several traditional practices among the mariners and seamen. Islamic law, rules related to trade and commerce, ritualistic practices among the sailors, and rules and regulations within the ships maintained a comparatively cordial atmosphere in the region. These are discussed in some detail in the subsequent paragraphs.

### ***Islamic law***

From the perspective of Asian maritime history, a significant event occurred during the first half of the eighth century when the Arabs conquered Sind. Sind was essential to both the Indian Ocean and overland trade and acted as a link between the two.<sup>11</sup> This key development was the start of Muslim influence in the IOR, which reached its zenith from the twelfth century onwards and continued till the arrival of the Portuguese in

the region in 1498. During this long span of time, the Arab traders dominated the narrative in the Indian Ocean. Arab traders were both merchants and religious preachers, while also playing an indirect political role. In southern India, from the eighth century onwards, colonies of Muslims were noticed, especially on the Malabar Coast and along the ports of Tamil Nadu. These people, mostly traders and merchants by profession, were engaged in exporting textiles and spices from southern India to the Middle East and imported gemstones from there.<sup>12</sup> The ports of Sri Lanka, Maldives and in Laccadive also witnessed a similar kind of prototype as seen in South India.

Therefore, when the Portuguese arrived in the Indian Ocean, they found the Arabs in a dominant position both financially and culturally. The sea lanes were crowded with the Muslim vessels from Sofala on the east coast of Africa to Ternate and Tidore in the Indonesian archipelago.<sup>13</sup> Abdul Sheriff explains the complex networks that connected the trading centres of Indian Ocean, further emphasising the dominant Arab position in the Indian Ocean.<sup>14</sup> He portrays that in the early centuries the oceanic network in the IOR was like *mare liberum* (free sea), where a dialogue across the ocean had taken place that led to the development of cosmopolitan city states on the coast. Gradually, the Indian Ocean had become all the more strongly linked through shared Islamic values and the ocean became “a Muslim lake” in the process.<sup>15</sup> Hence, when the Europeans reached Indian Ocean, they found Arab hegemony in the Indian Ocean.

This hegemonic position of the Arabs in the IOR was challenged first by the Portuguese. The Portuguese mainly aimed to enhance and maintain their maritime trade in the IOR and destroy age-old rivals. In the eighth century, the Umayyad Caliphate expanded westwards and took over the Iberian Peninsula by force from the Visigoths, who were the rulers at that time.<sup>16</sup> This led to a period of Muslim rule over the peninsula. However, after the fall of the Umayyad Caliphate, the Christian kingdoms (including Portugal) in the north of the Iberian Peninsula saw an opportunity to gradually unite and expand their power in the region.<sup>17</sup> They started a series of conquests, termed as the *reconquista* (reconquest), which were based on religious grounds by making it a war against Islam.<sup>18</sup> The Portuguese thus carried forward an anti-Muslim bias in the Indian Ocean.<sup>19</sup> They considered the Muslims as the foes of Christendom,<sup>20</sup> thus as their primary opponents, and looked to eliminating them drastically from the oceanic trade.

By the beginning of the sixteenth century, the Portuguese placed themselves in strategic spots in the Indian Ocean by conquering places like Goa (1510), Colombo (1505; a fort was built in 1518), Melaka (1511), Hormuz (1515), and Diu (1535).<sup>21</sup> The control of these strategic locations allowed the Portuguese to destabilise the Muslims who had formerly controlled the Indian Ocean trade.<sup>22</sup> Over the period of time, the Portuguese started supervising all the trading activities in the Indian Ocean and issued orders that all ships sailing in the ocean required to obtain a licence, or *cartaz*, from a Portuguese authority.<sup>23</sup> The critical point of the *cartazes* was that all Asian ships were mandatorily had go to the Portuguese forts or towns and pay customs duties before further voyage.<sup>24</sup>

Thus, prior to the coming of the Europeans Islam and Muslim merchants were in a dominant position in the western Indian Ocean. Islamic law also played an important role in settling disputes among the traders and sailors, which this article discusses based on available written documents. Furthermore, the Islamic law in the Indian

Ocean was mostly used for matters related to trade and commerce, articulated through networks of scholars that interlaced them.<sup>25</sup> This often led to Muslim merchants playing an increasingly indirect political role, as was the case in Calicut, where the Hindu ruler, called the *zamorin*, recognised a need to consider maritime interests in policy decisions.<sup>26</sup>

In light of such developments, Muslim merchants gained a high profile in the western Indian Ocean during the eleventh century. Muslims introduced the ideal, if not the studied, practice of rules which governed all aspects of life, including war and commerce.<sup>27</sup> Insofar as various aspects of life were concerned, Muslim identity was based not only on certain beliefs and rituals but also on specific social and commercial behaviours.<sup>28</sup>

The Quran was the primary source of law. However, there is very little in the Quran which is directly related to maritime regulation. The merchant ships are mentioned as “God’s bounty”.<sup>29</sup> The following verses explain the Islamic position regarding naval activities:

It is He who has made the sea subject [to you] that you might eat fish from it and that you might extract from it ornaments to wear, and you see ships ploughing in it that you may seek [profit] from His abundance and that you may give thanks.<sup>30</sup>

Among His signs are that He sends the winds as a token of glad tidings so you may sample His mercy; that ships may sail by his command so you may seek His bounty and be grateful.<sup>31</sup>

These verses from the Quran indicate that in Islamic tradition the ocean was treated as a free space, where every individual had an equal right to use the resources from it. In addition to Islamic jurisprudence, there were a number of pre-Islamic and extra-Islamic customary laws that provided standards in the conduct of the convoys of ships at sea and how to operate and regulate the fishing activities in the ocean.<sup>32</sup>

The administration of commercial and maritime law at each port was overseen by an official who was either chosen by the resident merchants or appointed by a government.<sup>33</sup> At Arab ports, such an official had one of several titles, depending on the culture and the job description. In ports of the Arabian Peninsula, he might be *amir-al-bahr*, “commander of the sea”. In many ports where Persian was the main language of interaction for trade, such as in the Gulf region and in India, he might be referred to as *shahbandar* or *malik-i-tujjar*, literally, “shah of the port” or “king of the merchants”. Another similar title was *ra’is* (chief), an Arabic word used primarily in Ottoman Turkish to denote naval rank.<sup>34</sup>

Thus, it can be argued that the IOR remained one of the least militarised and contested water spaces until the arrival of the European powers. In the pre-European period, most of the littorals in and around the IOR did not have the technological or political will for oceanic ventures, thus precluding any possibility of maritime contestations. The wide proliferation of Islam via Muslim traders and merchants ensured that a cogent framework of Islamic law prevailed, thus providing a legal and intellectual infrastructure for a documentation system shared by different religions, cultures and languages. Hence, the Indian Ocean did not need any heavily armed navy to provide security and justice.<sup>35</sup>

### **Rules related to trade and commerce**

According to Bishara, in the Indian Ocean, law was both everywhere and nowhere. It was hardly ever visible, but it left its mark on every actor, artefact and action.<sup>36</sup> Law was central to *how* the Indian Ocean world took its shape. As a technology – a means of coordinating effort – law furnished the institution and instrument necessary to organise commerce and settlement between Oman, India and East Africa, and to facilitate the capital necessary to fuel economic activity.<sup>37</sup> Law was essential to the process by which a range of actors negotiated, established and contested jurisdiction over communities and commerce.<sup>38</sup>

Bishara has mentioned the waraqas as legal documents because they were used as a guarantee for access to credit.<sup>39</sup> These practices of waraqas were present across the western Indian Ocean, from East Africa to Oman and further up to the Persian Gulf and the Arabian Sea to the Gulf of Kutch. Thus, the waraqas acted as a tie to bind the actors together in a lively oceanic activity where the movement of people and goods was constant, thereby providing much-needed confidence among the actors of trade and commerce. As argued by Bishara, law was the innermost constituent of trade and commerce in the Indian Ocean. It had worked as an institute and instrument, which allowed the arrangement of the necessary capital for commercial purposes in the IOR.<sup>40</sup>

The waraqas acted as an obligation which gave it its moral and legal force.<sup>41</sup> It should be remembered that in the medieval period, “obligation” was the fundamental idiom of commercial society, where it bound debtor to creditor, producer to retailer, and merchants to statesmen over the course of several generations.<sup>42</sup> The waraqas were the critical legal grammar of Islamic law which had multiple utilities in the Indian Ocean. Firstly, waraqas acted like a substance which allowed the Indian Ocean to determine its boundary geographically; secondly, they also provided the much needed base for the mutual trust among the merchants; and, finally, they acted as a tool for a smooth economic activity in the Indian Ocean.<sup>43</sup>

The historian K.N. Chaudhuri pioneered the notion that the rise of Islam and its expansion in the fertile lands of the Near East and South Asia created a lot of movements in the region. Thus, the movement of people involved “the exchange of ideas, and artistic traditions, economic systems, social usage, and political institutions”, including Islamic law.<sup>44</sup> The practice of *khiyar* (option) is another example of the presence of law in the western Indian Ocean. The *khiyar* was a sale deed which Muslim jurists originally conceived as a contract that would protect the rights of the signatories of the parties involved in commercial activities.<sup>45</sup> However, either party enjoyed an opportunity of revoking the contract within a certain period of time – usually a three-day period was provided for the same. The contract also provided a guarantee to the purchaser in case of the seller supply any shoddy merchandise.<sup>46</sup> By the seventeenth century, however, some jurists began to show flexibility regarding the time period that had usually been allowed in *khiyar*. One of the leading kingdoms of the western Indian Ocean was Oman, whose traders enjoyed considerable influence in terms of trading activities over the region. During the mid-seventeenth century, the leading jurists of Oman were of the view that the different objects should have a particular *khiyar* period. Thus, the jurists had ruled that for the sales of animals a standard three-day *khiyar* period would be observed, whereas for the purchase of clothes it would be only one or two day at the most, and items like

houses or a room would have at least a month of khiyar period.<sup>47</sup> It can be seen that law was visibly present in the western Indian Ocean, though in a different shape.

Also, according to Bishara, law did not only mean the pronouncements of jurists, but it also emerged from the action of merchants, planters and moneylenders.<sup>48</sup> Further, the treaties and deeds among the merchants and traders were treated as part of law. Hence, as the Indian Ocean arena was the product of commerce and migration, the documents related to trade and commerce provide considerable information about the rules, regulations and law in the western IOR.

### **Ritualistic rules of the Indian Ocean**

Since the language of law varied from region to region, oceanic practices were also different in different areas. There were various practices that acted as a kind of regulation for the conducts in the ocean. In this regard, in the western Indian Ocean, many myths, rituals and folk beliefs existed, and were practiced, which demonstrate, support and reinforce the urge to sail across the billowing waves.<sup>49</sup> In most of the religious texts of Indian religion, a considerable part was dedicated to information about maritime conducts. For instance, in Buddhist lore, *yaksas*<sup>50</sup> were taken as protectors of water who would safeguard the sailors during their oceanic journey. Among the *yaksas* mentioned as being patrons of merchants and travellers, Manibhadra and Purnabhadra were the most important.<sup>51</sup> Therefore, a guild of merchants, who were devotees of Manibhadra, installed an image of Manibhadra at Padmavat or Pawaya in Gwalior.<sup>52</sup> Maninmekhalai, another Buddhist idol, was considered the guardian of the eastern seas and protector operating in these waters.<sup>53</sup>

Some noteworthy deities worshipped in Kutch, one of the prime centres of maritime affairs in the western Indian Ocean, were Khojl, Dilvadl, Mamai, Padmani, Poravel and Veravani.<sup>54</sup> Apart from this, in south Gujarat and Saurashtra, a special ceremony was observed to demonstrate the opening of the sailing season. It is to be noted that this practice continues till date in the littorals of Gujarat. The ceremony marks the end of the monsoon period, when the turbulence in the sea reduces drastically. On the full moon day in the month of July/August – called “Narali-Purnima” or Coconut Day – the sea is worshipped by both Muslim and Hindu mariners. The traveller J. Ovington has also mentioned the coconut day by explaining that the sailors performed the Narali-Purnima to satisfy the God, so that the yearly monsoon would be less dreaded, which in turn would allow them to sail in the ocean with minimum hazard. Ovington further mentioned that, this ritual was performed by the Brahmins (on behalf of the sailors) by offering a large number of coconuts in the ocean to tranquil the infuriated waves and to appease the storm and its wrath.<sup>55</sup> Once these ceremonies were done, the Brahmins declared safety, following which the ships would venture to sea; without this ceremony being performed, no ship would dare to weigh anchor.<sup>56</sup>

Perhaps the most interesting ritual which has evolved and developed over the years in Kutch and parts of Saurashtra is centred on a composite Hindu–Muslim deity-saint known variously as Darya Lal or Darya Pir.<sup>57</sup> He is sometimes represented in the form of Varuna resting on a fish, but more often there is no image. In Muslim shrines, there are no representations as his presence is taken to be omnipresent. Among both Hindu and Muslim devotees, light and water are associated with his worship and veneration.<sup>58</sup>

In Saurashtra and Kutch, a fair is held in his name on the seashore. After sweet rice is offered to the sea, it is distributed among the gathering. His protection is invoked at times of crisis at sea, but the formal thanksgiving rites are undertaken on return to land.

Thus, it can be seen that a strong need for security prevailed among Indian sailors, which was ameliorated through the invocation of various deities before and during their forays into the ocean. This fear of uncertainty restricted the mariners and they would not travel beyond certain areas of the ocean. It was their belief in God and deities that helped them to remain calm and uphold the order in the seas. Hence, it can be seen that religion, beliefs and rituals had a considerable role in maintaining order in the ocean and among the mariners. A careful study of the religious texts would also enable us to understand the maritime legal culture at work in the western Indian Ocean.

### ***The ship's law: Governance of the Indian ship***

During the Age of Sail, the ship was a microcosm of the ocean. Some scholars have even termed it as “a political space”.<sup>59</sup> Onboard a ship, rules and regulations were strictly followed to secure the ship's cargo, so as to create an atmosphere of safety for the sailors, mariners and passengers. However, in the European ships, there were comprehensive rules and regulations to safeguard the interest of the mercantile company from its own crews.<sup>60</sup> Therefore, the system like having an invoice and signing warrants, were introduced in the ship to keep the crew tightly under control.<sup>61</sup> In a European ship, in the early voyages, members of the crew were punished for various crimes like murder, attacking officers, duelling, absconding, going or staying ashore without permission, drinking on the Sabbath, stealing, and disobedience.<sup>62</sup> The culprits were given uttermost punishment for their crimes. They were punished by drowning under the deck, by nailing through their hands at the main mast, and cutting of wages up to six months of salary.<sup>63</sup> Smaller transgressions were settled by the general with his own discretion, without a jury trial. However, for a major offence, a proper trial was conducted where witnesses were examined, depositions were received, and the hearing was convened before juries of 12 mariners according to English laws.<sup>64</sup>

The captain of the ship was provided all the authorities by Royal Commission to punish the offenders and transgressors according to their offences and maintain rule and order within the ship.<sup>65</sup> Thus, the ship was meant to be a competent space to deliver justice. The Crown clearly stated the division of power in the English ships through letters of commendations to the authority in the ship. The lieutenants of a general in the ships could assert authority as the “Judge” only in case of the passing away of the former. There was no division of absolute authority of justice in the ships.<sup>66</sup>

With regard to Indian ships, *Ain-i-Akbari* has provided a detailed description of how these ships were manned and managed during the Age of Sail.<sup>67</sup> In the days of sail, the cost of sea transport was primarily the cost of paying and feeding the crew. Therefore, the Europeans preferred operating with ships that required small crews in relation to the cargo they carried. However, from 1726 onwards, there was a decrease in the ratio of crew to tonnage in the European ships.<sup>68</sup>

Further, in comparison to European ships, Indian ships employed a large number of crew members. Marco Polo stated that in Indian ships there was a need of 150–300 crew members, according to the size.<sup>69</sup> He also admitted that the Indian ships were generally larger in size than ships in Europe. Abu'l Fazl, while making similar assertions as Marco Polo regarding the number of crew, provided some qualities for becoming a seaman during that age. According to him, a seaman should be acquainted with the tides and the shallows and banks; the depth of the ocean; and the time when the severe winds blow, including their advantages and disadvantages. Along with this, the sailor should be healthy and strong, a good swimmer, kind-hearted and hard-working; in fact, he must possess all good qualities conceivable in a human being.<sup>70</sup> Fazl also suggested that the best-quality sailors come from the Malabar Coast.

As suggested by both Marco Polo and Fazl, crew members and sailors of an Indian ship varied according to its size. These crew members were divided into 12 categories according to their roles and experiences. The first one was the owner of the ship, known as the *nakhuda*; he often decided the course of the ship.<sup>71</sup> Allan Villiers provided information that the *nakhuda* acted as a judge on the ship and had to settle all the disputes among the passengers; he was the sole judge and jury.<sup>72</sup> Besides this, he had many other duties to perform: “He had to look after that the passengers were delivered safely to their destination, he led them in the prayer, and he attended all their needs except medicinal and surgical needs as there were no medicines on board and no dressings.”<sup>73</sup>

G.F. Hourani suggested that the *nuwakhid* were the shipmasters, and they themselves were often merchants.<sup>74</sup> The *nakhudha* was the highest in the hierarchy among the crew. Etymologically, the term is Persian: *naw* meaning “boat, ship” and *khuda* meaning “master”, thus giving the meaning “captain or master of a vessel or boat”.<sup>75</sup> The second important person of the ship was the *mussalim*, who was the captain of the ship. He was a well-informed person who had the knowledge of depths and shallow places of the ocean, along with a working knowledge of astronomy. It was this captain who was vested with the responsibility to guide the ship to its destination and prevent the passengers from any danger.<sup>76</sup>

The sailors of the Indian ship, in general, were called *khalasis* or *kharwas*; and the chief of the sailors was known as the *tamdil* (sometimes called as *tandail* or *tandel* also).<sup>77</sup> They had specific duties to perform on the ship, and accordingly had their designations, and the salaries were paid as per their rank. Besides these, Emperor Akbar set down the rules to fix the salary of the sailors, which, of course, varied from region to region and depended on the course of the journey.<sup>78</sup>

Abu'l Fazl has given a detailed account of the ranks of the sailors and their duties on the ship, including their salaries. The *nakhuda-khasb* was bestowed with certain duties, such as providing firewood and straw to the passengers, assisting in the shipping and unloading cargoes at the ports; and the *sarhang*, the mate in the ship, was in charge of supervising the docking and landing of the ship, and often acted for the *mussalim*, the captain.<sup>79</sup>

The *sukkangir* or helmsmen was in charge of steering the ship according to the orders of the captain. He was not the only person bestowed with this duty. There were several of them, but never more than 20. The *pnjari* was stationed on the top of the mast and announced when he spotted land, a ship, an approaching storm and so on; and *gumti* had the task of throwing out the water from the ships, which leaked into the ship.

There were *top-andaz* also in a ship, whose work was to secure the ship from external threat, but their numbers depended on the size of the ships. They carried matchlocks and, at times, canons on the ships.<sup>80</sup> Finally, there were several *kharwa* or common sailors, who usually did the odd work on the ships, including the setting and furling of the sails; they also acted as divers to stop leakages and set the anchors free when they got fouled or stuck.<sup>81</sup>

In Indian ships, there was no provision for a physician and a cook, unlike the European ships where they were part of the ship's crew.<sup>82</sup> In European ships, a doctor or surgeon was found in nearly all the ships of over 200 tonnes, which generally sailed for long distances.<sup>83</sup> There was also a common cook who cooked for sailors and officers of the ship, who dined together; in fact, there was no separate dining table.<sup>84</sup> The duty of the *nakhuda-khasb* in providing fuel to passengers indicates that the latter had to cook their own food.<sup>85</sup> The Indian crew in command of the ship had their own cabins and a servant who would look after their goods and serve them with food.

Also, the crewmembers in Indian ships were paid per voyage, except the employed English sailors, who were paid monthly. Fazl has provided a long list of wages paid to the crew. According to him, the amount of the wages of the sailors varied and depended on the voyages, or *kushas*, as seamen used to call it.<sup>86</sup> The list of the wages is complete in respect of 12 categories of crew members, and is different in different regions. Fazl has recorded the wages in three ports of Satgaon (Bengal), Khambayat (Cambay) and Lahori (Bandar), but does not provide any reason for the differentiation of wages in different regions. He also failed to note the course of the voyage and there is no indication if the distance that the ship sailed had to be taken as a criterion for the wages paid to the crew.

Thus, it remains a mystery as to why the crews were paid differently in different regions. A.J. Qaisar has suggested that it might be because of the volume of trade in the area, and also the experiences of the sailors were accounted for in fixing their salary.<sup>87</sup> One cannot rule out the possibility that the monetary gains of the owner of the ship, acquired in the course of a voyage, might also have decided the salary of the crew members. All other crew members of the ship got their wages "in the same proportion" with the *nakhuda* in the ports of Khambayat and Lahori Bandar. Given that the *Ain-i-Akbari* was written at the close of the sixteenth century, there are no other written documents to see whether there was a rise in the wages of the crew in the following centuries. Whether or not European presence brought any change to the sailors' wages also remains undetermined due to the paucity of sources. Other than the normal wages, the crew members also used to get some added perks and benefits. The *nakhuda* was allowed four *malikhs*, or cabins, which he filled with wares for his own profit.<sup>88</sup> The *nakhudas* also received minor gifts from the passengers at first sighting of the land after a long voyage in the high sea.<sup>89</sup>

The occupation of seafarers in India was mostly a hereditary profession, where the younger generation used to receive knowledge of navigation from their ancestors. The affluent hardly chose this profession as it was considered a job of the lower strata of the society. Hardly any references can be found about the participation of anyone from the higher social backgrounds, like the son of a Mughal noble or a wealthy merchant.<sup>90</sup> However, in a European ship, particularly in English ships, sons of Members of Parliament, noblemen and the richest merchants of London were sent to the ship as

crew members to learn the art of navigation and trade.<sup>91</sup> These young boys served the captain with the kind of respect, obedience and submission that one would imagine from boys coming from humble families of fishermen or parents who could no longer support them.<sup>92</sup>

It is not known how much the passengers were charged to travel on a ship. It depended on the will of the *nakhuda*, who ultimately decided the fare according to the demand. Sometimes, he used to determine the fare in an authoritarian way. In the *Anis-ul-hujjas*, it has been mentioned that in one instance when observant passengers protested against the overloading and threatened to disembark the ship, the owner agreed to their demands but increased their fare to compensate for his loss.<sup>93</sup> Thus, it seems that there was no regulatory body to regulate the fare of the ship.

Sheriff has quoted Carr Laughton, who said that “Of all things the ship is the most cosmopolitan not only in itself, but also in the role it plays in history.”<sup>94</sup> People from different religion, caste and group sailed and lived together for months on the ship, making it the most cosmopolitan space of that age. However, Abbe Carre has provided a different picture: the wealthy passengers travelling with their family, who wished to keep their wives away from the gaze of other passengers, booked separate cabins which would cost generally 225–300 *ecus* or 600–700 *livres*.<sup>95</sup> In these cabins, there would be provisions for cooking and the fuel would be provided by the ship’s authority. Meanwhile, Villiers, talking about an Arab *dhow*, has stated that the passengers, especially the Muslims, performed *namaz* regularly five times a day. He said: “the old man led the prayers, standing in front of the long line of the strange congregation with his drawn tragic face sightless towards Mecca”.<sup>96</sup> These congregational prayers provided the passengers a platform to get together. According to Abbe Carre, when he was travelling from India to Arabia, a rich Persian merchant hired two middle-sized cabins at the cost of 300 *ecus* each (around 68 *livres*) to keep his half a dozen wives in seclusion.<sup>97</sup> However, for a common passenger, accommodation was generally arranged on the deck (*arsha*) itself.<sup>98</sup> Thus, in the medieval period, “the ships of the state become the ship as the state”.<sup>99</sup>

### **Royal letters as law**

A number of letters were written by the European Crowns to the princes of the East during the medieval period as part of their trading venture. They also provided several letters to their company which conducted trade with the East. These writings were purely for functional purposes, such as talking about how to conduct trade and maintain relationships with the Eastern powers. Stephan Greenblatt has argued that sixteenth-century Europeans shared a complex but well-developed mobile technology of power.<sup>100</sup> The company servants in the East used to get periodic instructions from their respective Crowns to conduct affairs in their colonies. Besides these, the trade agreements between the Crown, the company and the ports and factories can also be treated as part of law.

Discussing the writing in the Age of Sail, and focusing primarily on the letters written by the English Crown, Miles Ogborn has divided these letters into three categories according to their practicality. The first category is letters that were produced as part of the local political and economic relationships between the Crown and the company

within England; and the second category includes the letters written to the company servants, company officials, and to the princes of the East.<sup>101</sup> Finally, those letters which were written from ships to shore for negotiating terms and conditions or rules and regulations for trade with the local inhabitants comprised the third category.<sup>102</sup> However, these letters were not without any issue during their processing. There were various apprehensions between the Crown and the company.<sup>103</sup> For instance, James I and Charles I sold permissions to trade to other parties, except the English East India Company.<sup>104</sup> They also sought a merger of English East India Company with its competitor from Netherlands – the Vereenigde Oost Indische Compagnie (VOC), and did not facilitate any armed forces or diplomatic aid when the company required it the most.<sup>105</sup> On the other hand, the company too dodged the restrictions put on it by the Crown regarding its antagonistic relations with other European companies in the IOR, and also supported the parliament during the debate on taxation raise, where the parliament was against the raising.<sup>106</sup>

Therefore the company was very cautious regarding its dealing with the Crown. They tried not seeking much political and military support from the Crown and sought to leave these affairs mostly with the pertinent authorities.<sup>107</sup> This was because the Crown, at times, had to provide some of its exclusive authority to the company, which otherwise was an exclusive right of the monarch. In the initial years, these royal letters were the means of intercontinental technologies through which the company received instruction from the Crown regarding its actions in the East.<sup>108</sup> Various trade agreements and political accords were completed in the regions like Red Sea, India and the South East Asia after taking instructions from London by the company. In response to these favours, the Crown received a large amount of loan and bribes from the company throughout the seventeenth century.<sup>109</sup> Besides these, the rulers also increased the custom revenue for the company by threatening to abolish their monopoly privilege whenever they wanted.

### **Conclusion: British as law enforcing authority**

With the establishment of their firm control over most of the Indian subcontinent in the eighteenth and nineteenth centuries, the British in India had proceeded towards an innovative and experimental domain.<sup>110</sup> The Indian Penal Code was introduced by Viceroy Macaulay in 1860, which was later carried forward by several of his successors and implemented rigorously. Over the period of time, it had developed into legal equipment for the colonial government on both sides of the western Indian Ocean.<sup>111</sup> This allowed the settlement of oceanic disputes with ease. Therefore, a political and legal policy was brought in by the imperial authorities during the second half of the nineteenth century, which in the later period was further developed and modified for the British rule in the Indian Ocean.<sup>112</sup> However, there is another debate about how the law travelled with the British.

Imperial authorities and colonial subjects carried law with them through various means, including the ship. The Indian Penal Code was one such law that was carried through the established trade routes in the western Indian Ocean during the nineteenth century, in particular, forging new legal itineraries and formulations in the process. The implementation of colonial law in the Indian Ocean did not materialise without any challenge. During its journey, many laws had to undergo various modifications. In 1884, the consular court in Zanzibar was declared as part of the Bombay High Court. This move of

the British authorities had established a territorial link among the littorals of East Africa and Western Indian regions. In 1890, the relationship was further strengthened between these regions when a court was started in Mombasa, which was operated using the Indian Penal Code along with Islamic and indigenous laws.<sup>113</sup>

In 1796, Kashidas Laldas petitioned to the Bombay Council on behalf of his grandfather, Govardhandas Bhucandas. This petition stated that their vessel, namely, *Daria Daulat*, had been attacked in the western Indian Ocean even after dutifully following all the protocol, procedures and safety guidelines and after taking the necessary pass from the company. Therefore, on 14 December 1796, the company's Bombay Council had to meet to address the said complaint.<sup>114</sup> This incident clearly shows the grip or hold of the English East India Company over the western Indian Ocean. They were acting as authority and protectors over the affairs of the western Indian Ocean.

To summarise, it can be said that the Indian Ocean was mostly governed by various traditional maritime practices during the pre-European era. By the twelfth century, the Arabs gained influence over the Indian Ocean's affairs. During this period, the Arabs, Asians and Africans came into contacts for trading purposes and it was Islamic law that provided a shared vocabulary to settle various disputes in the IOR. However, by the end of the fifteenth century, the Europeans entered the IOR. They brought in various rules and regulations regarding maritime affairs. Gradually, there was an amalgamation of the new laws and the traditional maritime practices, and thus the new admiralty law was codified for the Indian Ocean by the British in particular, and the Europeans in general, by the eighteenth to nineteenth centuries. Maritime affairs in the Indian Ocean, thus, went through various phases till it reached the state of an organised admiralty law.

## Notes

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