

Oral Testimony as Historical Source Material for the Reconstruction of the Judicial History of Shipping in India (1600–1800)

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Abstract

This study was an attempt to understand how the available alternative source materials, such as oral testimonies can serve as valuable assets to unveiling certain aspects of maritime history in India. A number of themes in maritime history in India failed to get the attention of the generation of historians, because of the paucity of written documents. Unlike in Europe, the penning down of shipping activities was not a concern for the authorities at the port in India. The pamphlets and newsletters declared the scheduled departure of the ship in Europe but, in India, this was done verbally. Therefore, maritime history in India remained marginalised. Hence, in this article, I make an endeavour to perceive how the oral testimonies can help shed some new light on certain aspects of maritime history in India, such as life on the ship, maritime practices, and perceptions among the littoral people in coastal societies. This article also outlines an approach on how the broader question on the transformation of scattered maritime practices among coastal societies can be adapted and transferred into an organised institution of law by the nineteenth century, and how these can be pursued in future. I also suggest in this article that the role of Europeans, especially the British, in the process of transformation, can be investigated further through oral testimonies in corroboration with the colonial archival records.

Keywords: folk songs; Indian Ocean; littoral societies; maritime history; maritime perceptions; oral traditions

Introduction

Oral testimonies are valuable source materials for societies, communities, or groups whose past histories have not been recorded in the form of writings. Studies have shown that oral



histories can be critical sources for supplementing or complementing the evidence of existing documents for cross-checking the facts. In the case of India, certain pockets of the Indian society had been transformed by currents generated by modernity, while they remain bound to the umbilical cord emanating from the previous cultural mould. Hence, oral testimonies can be assets to unveiling the past of societies, whose history is yet to be explored adequately.

In most Indian states, the practice and teaching of history remain affected by nationalism, caste, and religious considerations. However, there are some themes of Indian history, which still remain unexplored, or are of less interest among generations of historians. The maritime history of India is one such a theme that has been a neglected subject. Modern scholars who are working on Indian maritime history at times criticise the generations of historians, who have worked on Indian history, by stating that they presented India in such a way as though there were no coasts in India (Arasaratnam 1994). However, these maritime historians faced the question: *Where does this coast start and where does it end and where does the hinterland begin?* Whatever may be the arguments, there are aspects of the maritime history of India like life on the ship, food habits of the mariners, and various superstitious beliefs and so on, which are yet to be presented adequately for the readers. Some arguments also mirror the absence of texts on the coasts as an absence of activity; not engaging with other sources; thus complicating the problem further. Hence, the socio-judicial aspect of shipping is one such a topic that largely remains unexplored.

It is not an easy task to trace the judicial history of the Indian Ocean because of the lack of written pieces of evidence. However, certain practices and perceptions were prevalent among the littoral people, which can shed some new light on the aspect. Therefore, this article emphasises the use of alternative sources, such as oral traditions, like the traditional songs of the sailors to reconstruct the specific aspects of the maritime history of India. As there are limited sources, I have made an attempt to base my ideas, mostly on secondary sources, or translations of original works, such as the various travellers' accounts of the contemporary period. This article primarily provides a historiographical analysis of the existing work, and identifies a gap in research. The article further suggests a new approach to fill in those gaps with oral testimonies, such as songs, ballads and so on. Therefore, the focal point of this article is to provide an alternative approach to bringing forward certain aspects of the judicial facets of the Indian Ocean.

A Survey of Existing Work: New Departure from Traditional Historical Writing

Off late, few works have been produced on the maritime history of India and the oceanic history of the western Indian Ocean that have followed a different methodology. Here I have made an effort to discuss these works for a better understanding of the proposed approach. Varadarajan and Mcgril (2003) have shown the window in this aspect of the methodology. Varadarajan (1998), in her ethnographical work (Varadarajan 1980; Varadarajan 1995), explores the technological aspects of Indian ships in construction. She

conducted a detailed survey on the island of Lakshadweep, as well as extensive interviews with key participants of ship-builders. She also took photographs of the interviewees, people, and events described in the interview. Similarly, McGril (2003) has investigated the boat-building traditions in the selected regions such as Bangladesh, West Bengal, Orissa, and parts of Andhra Pradesh.

Both these works, however, are mainly concerned with the technological aspects of maritime history. It was only Simpson (2006) who tried to bring out the socio-religious aspects of the seafarer Bhadala community of the Kachchh region of Gujarat. Simpson focuses on the Bhadalas, a community engaged in ship-owning and ship-building, primarily settled in the Kachchh region in present-day Gujarat. The main focus of his research was to trace the parallels between technical and social initiation of low-status Bhadala apprentices, and the opportunities available to them for rising economically. This formed an interesting part of his argument. However, in the process, he has observed that the Bhadala community still follows their age-old techniques of ship-building, and the traditional navigational methods as well. Thus, the deconstruction of Kachchh, proposed by Simpson is convincing and opens up perspectives for studies on other aspects of maritime history by using oral testimonies.

Allan Villiers, an Australian sailor, and maritime historian had visited Arabia in 1938 and penned down his observations about the maritime practices among the Arab sailors in the Indian Ocean (Cooper 2011). At Aden, Villiers found an Arab Dhow master prepared to take a lone Westerner as a crewman. Ali bin Nasr el Nejd and his Kuwaiti crew then started the age-old voyage. The return voyage took place in 1939. During this voyage, Villiers interviewed the co-voyagers and the crewmembers. His photographs depict the life and skills of the Arab Dhow sailors. Drawing on personal experiences and from the interviews, along with the photographs, he produced a masterpiece on maritime practices. In the book titled *The Sons of Sinbad: Sailing with the Arabs in their Dhows* he points out that the Nakhuda¹ acted as a judge in a ship and had to settle all disputes among passengers; he was the sole judge and jury (Cooper 2011). Talking about an Arab Dhow, Villiers states that the passengers, especially the Muslims, performed *Namaz* regularly five times a day. Allan says that “the old man led the prayers, standing in front of the long line of the strange congregation with his drawn tragic face sightless, yet facing towards Mecca” (Villiers 1996). Thus, this piece of work provides information about the age-old maritime practices of the sailors in the Indian Ocean. It is a pioneering work and the first of its kind.

All these works provide an insight to the emerging students of history to take a new approach to the study of maritime history and provide new answers to old problems, as well as pose new questions about the maritime history of India from the sixteenth to the

¹ It is a Persian word derived from *Nau*, which means boat, and *Khuda* meaning owner. In the age of sail *Nakhuda* used to be the owner as well as the captain of the ship in the Indian Ocean region.

eighteenth centuries. Many of them need to be addressed adequately. In the following discussion, therefore, I attempt to discuss how oral traditions can be used as source material to reconstruct the judicial history of shipping in particular.

Oral testimonies as an Historical Source

The use of oral testimony for the writing of history is by no means a modern innovation. Hearsay and on-the-spot enquiry have been used since time immemorial. However, until recently, in India oral sources have not been given the overt recognition accorded to other sources such as literary, epigraphic and monumental evidence. This may be, perhaps because the appropriate methodology by which an immature mass of oral information could be transformed into valid historical data had not received adequate attention. Even today, despite the advances, which have been made, much more work remains to be done, mainly in the field of folklore, superstition, and myth.

Alessandro Portelli has argued that oral sources are credible but with different credibility. The importance of oral testimonies may lie, not in its adherence to fact, but in its departure from it as imagination, symbolism, and desire emerge, because it portrays the symbolism and the desire that emerge underneath the event or fact. Thus, there are no “false” oral sources (Villiers 1996). Once the factual credibility of the sources is checked using the set criterion of factual verification, the truth about the past can be unveiled. However, the diversity of oral history accounts for the fact that “wrong” statements are still psychologically “true”, and that this truth may be equally as important as factually reliable accounts (Portelli 1991).

There is a difference between oral traditions and other oral sources. The oral traditions are the verbal messages that are reported statements from the past beyond the present generation (Portelli 1991). Not all oral sources are oral traditions. To be categorised as oral tradition, there must be transmission by word of mouth over at least a period longer than the contemporary generation (Vansina 1985). This means that a tradition should be seen as a series of successive historical documents all lost except for the last one, and usually interpreted by every link in the chain of transmission (Vansina 1985).

Introducing the Ocean

Oceanic history has been able to get the attention of researchers and readers alike ever since Fernand Braudel and his co-historians and other scholars plumbed the oceanic depths for new insights into old historical questions and innovative directions for scholarship. The Atlantic world has garnered the lion’s share of attention, but a steady stream of scholarship has been published on the Indian Ocean and the Pacific as well. However, the scholarly works on the Indian Ocean primarily remain confined to the themes of trade and commerce and technological aspects. Thus, maritime history in India remains marginalised because of the paucity of written sources and documentation.

The ocean has always played a formidable role in the life of human beings throughout history in terms of providing resources, as well as acting as a significant means of transportation, especially in the “age of sail.” In the medieval period among the three natural elements of transportation and communication (land, water, air), it was the waterways that formed the most efficient means of communication and trade. Water, through its seas and rivers, has been the first to offer humans the opportunity to carve out routes for trade and commerce (Vansina 1985). A ship could accommodate many cargoes than a caravan of pack animals (Banerjee 2016), and thereby, provided an efficient medium of transportation.

The modern law of the sea, like other rules of inter-state conducts, is essentially a product of the European mind and beliefs, and a part of the modern world order. Philip Steinberg had argued that before the incarnation of the Portuguese in the Indian Ocean, no power of the region held a view on maritime jurisdiction that paralleled with the Europeans, or later the European-controlled Atlantic (Mukherjee 2013). However, it does not imply that the Indian Ocean activities were conducted without any rules and regulations, or that it was a lawless zone. There were a number of maritime practices that prevailed in the region that helped in the smooth running of maritime activities. These practices were also identified as shared traditions to be respected mutually.

Oral testimony and oceanic history

Vansina (1985) opines that oral tradition is not only a raw source as such; it is a hypothesis, similar to the historian’s interpretation of the past (Steinberg 2001). Therefore, oral traditions should be treated as hypotheses, and as the first hypothesis, it means the event which is described in an oral tradition should be taken into consideration at first. Thus, the modern scholar must test the oral traditions (if available) before he or she considers other sources. To consider them first means not to accept them literally or uncritically. Benton (2005) opines that law travelled with the legal officials, sailors, mariners and so on. The Indian Ocean region also witnessed these new rules with the presence of the European powers that they had brought with them from the Mediterranean and the Atlantic. Hence, it would be interesting to see how the new set of European maritime practices in the Indian Ocean influenced existing maritime practices in India. Thus, the empirical data left by the European trading companies in forms of letters written by its servants to the company officials and factory records, along with the oral traditions of the contemporary age in the littoral societies, would enable the researcher to draw a narrative about the transformation of customary law to an organised form of law and the role of the Europeans in it.

By the sixteenth to eighteenth centuries the Indian Ocean no longer remained a secluded place. The early globalisation incorporated it into global geopolitics. By the late seventeenth century, the “high seas” were emerging as a separate legal space – a region on its own (Benton 2005). The western Indian Ocean was also no longer a “zone of relative peace.” It had become a “hub of contestation” between powers. So, it becomes important to see how the contestation of these maritime politics shaped the localised maritime

practices of India into an organised institution of “Admiralty Law”² by the eighteenth and nineteenth centuries.

The claim on the monopoly of the Portuguese in the Indian Ocean, on the basis of the Treaty of Tordesillas (1494) created restrictions on other European powers to trade in the Indian Ocean, which they contested both legally in Europe and physically in the western Indian Ocean. These confrontations led to the codification of a new set of Admiralty Law by the local customary laws, where the British played an active role. Thus, an adequate study of the subject is important to throw some light on the topic.

By the seventeenth and eighteenth centuries, the ocean was no longer seen as an isolated place; out of the reach of history. Meghan Vaughn wrote that “oceans are not blank spaces on the map, nor are they gaps in the histories of the world consisting of continents” (Mukhurjee 2013). The use of oceans as highways of communication, rather than as insurmountable barriers, linking scattered communities, was one of the significant shifts in the period between the seventeenth and eighteenth centuries. There was a large-scale human migration during this period that shaped the culture of many coastal regions. This migration not only influenced the demography of the coastal spaces, but also influenced the maritime practices that had been followed by the locals for ages. Hence, an ethnographic study of the littoral communities would enable the researcher to bring to light certain aspects of various practices prevalent among the seafarers.

During the seventeenth and eighteenth centuries, the ship became the microcosm of the ocean. Despite the harsh life on the ship, the profitable nature of navigation prompted the mariners to undertake long journeys. Thus, ships no longer remained a secluded place. Ships became large and comparatively swift and safer. The sailors had to spend the most part of their lives on board. The ship was kind of a different society with different sets of rules and regulations. Hence, it would be interesting to see how the Nakhuda enforced these rules and regulations on the voyagers as Villiers has termed him the sole judge and jury in the ship.

Figure Songs: Representation of Human Emotions at Sea

The sailors used to sing songs to avoid boredom. Such songs also contain considerable information regarding the interior situations of the ship. The age of sail witnessed a vulnerable situation in the ocean regarding weather and the availability of food items. Hence, a significant portion of the *figri*³ song cycle and maritime work songs were centred

² Laws related to negotiating the affairs in the Ocean. The lower courts are known as the prize courts while the higher courts are known as the Admiralty court.

³ The folk song sung by the Arab Dhow sailors during their voyage on the ocean as part of reducing anxiety.

on asking God, the Prophet, or other Islamic spirits for protection. On board, the work and rest songs were also an essential part of helping the divers cope with the difficult conditions and their monotonous life. The communities on shore would also have songs asking God for the protection of their loved ones at sea (Ulaby 2012). Few citations of the *figri* songs in the following excerpt further prove the point. The following songs are an expression of the feelings of loneliness among the sailors.

Song: 1

They fight death and all its elements
While smiling
O how I suffer from the long nights
Witnessing those motherless divers
Every time a month passes by, another follows
Until the eyes grow old.
--Murshid bin Sa'd al-Bithali (Al-Tae 2005).

Song: 2

Oh, how lucky are the rich
Who no longer cross the ocean as me.
And again:
If I was rich and a merchant
I would never have endeavoured
But I'm weak and all I have
Is my cane.
--Fahad Rashid Boorsely (Al-Tae 2005).

In the above-mentioned song, the sailor expresses his poor luck of not being wealthy. He bemoans that had he been rich, he might not be going to the ocean in search of a livelihood. He says that he does not have anything except his bowsprit (cane). This song is a manifestation of the unfavourable circumstances in the ocean that led the sailor to lament his ill luck.

Song: 3

Oh God, your blessing, most majestic
We have not forgotten prayers,
That the best among us may grow old
Tears are dropping from the eye
Over the cheek it fell,
Oh, East African I cannot compete with you
Seven beautiful marks on your cheeks
You are my lord, and I am your servant
In the evening you will be my wife
When I sleep, my peace begins (Ulaby 2012).

The lyrics of the above-mentioned song are derived from a *haddâdi*⁴ song from the *figri* song cycle. This song is an expression of both prayers to God for safety and also manifest the imagination of the sailor about the ocean. The ocean has been fancied as the better-half with whom he dreams of in the evening after all the hardship he faced during the day. He imagined the ocean as the lord and himself as a mere servant. Hence, these sweet songs expressed the vicissitudes the Mariners shared with their oceanic venture. During the off-season, groups would gather in a meetinghouse or *dâr*. These groups still exist today. Therefore, an examination of these folk songs would enable the researcher to develop a better understanding of the maritime practices of the Indian Ocean sailors.

However, one should not reduce the maritime activities only to economic need. Profit from a voyage was essential, but the adventurous nature of the journey also attracted many. In India, people from the higher echelons of society avoided serving in the ship, while in Europe even the sons of nobles, parliamentarians, and prominent merchants served as mere crewmembers of the ship to learn the profession, as well as to satisfy their adventure. The profession of a sailor in India seemed to be a closed group. In most cases, the sailors acquired the skill of seamanship from their ancestors. We can hardly find any reference of any sailors coming from the higher social background. However, this was not the case in Europe. In the European ship, particularly in English ships, sons of Member of Parliament,

⁴ These were the songs sung by the mariners in ship during their journey to get rid of their boredom. But, these songs are can be good sources to unveil their emotional state of mind.

noblemen and the wealthiest merchants of London were sent to the ship as crewmembers to learn the art of navigation and trade. These young boys served the captain with such respect, obedience and submission that one would imagine that these miserable boys came from the family of fishermen, or parents who could no longer support them (Fawcett and Fawcett 1990).

Nevertheless, even in the present days various practices prevail among the mariners, which they follow generation after generation. The seventeenth-century traveller, J. Ovington mentions in his account that in Bombay the sailors used to perform a ritual to stop the monsoon so that they could venture upon the sea safely. According to him, this festival was known as the *Narali Purnima* or Coconut Day. Ovington states that the Brahmins, in their endeavour to appease the ocean, made an offering of a significant number of coconuts to the sea to calm its enraged waves and to pacify its storm and fury. Once these ceremonies were over, the Brahmin declared the ship safe and then the ships would sail for sea one by one. No ship would dare to weigh its anchor before this ceremony was performed (Ovington 1994). It is important to note that in the present days also the mariners follow these traditions and never fail to perform the *puja* before a voyage. Hence, the use of oral testimonies, along with the archival materials would help bring forward the process of the transformation of these customary maritime practices into an organised Admiralty Law.

The Vadabaliya, another prominent cast group that settled in the coastal region of Andhra Pradesh were known for their skill as carpenters (Vadlavadu). They used to construct their ships until a few hundred years ago as they were a prominent shipbuilding class among the fishermen community (Schoemburcher 1998). According to Elisabeth even today, in their marriage ceremony, the groom drives four symbolic nails into a wooden pole held by the bride to commemorate their ancestral profession (Schoemburcher 1998).

Epilogue: It can be said that despite its few drawbacks, oral testimonies are like mines of raw data from which historical evidence can be extracted. The oral testimonies would provide an opportunity to reconstruct certain judicial aspects of maritime history. Interviews with members of the fishing communities and the groups engaged in traditional shipbuilding would enable the scholar to shed some light on various customary laws related to shipping. The folk songs sung by sailors would also provide an insight into “the law governing within the ship” and the various aspects related to life on the ship. The various beliefs prevalent among the seafarers can also be source material to understand the dreaded situation in the ocean and the behavioural pattern of the Mariners. A comparative study of the oral testimonies and the empirical data can provide a great deal of understanding of the narrative of the process of transformation of the customary laws for the littoral societies into an organised form, and an insight into the various maritime practices among the groups in the littoral societies. The empirical data and documents would enable the researcher to draw a connection in the progress of transformation from these scattered maritime practices into an organised Admiralty Law. The role of the British can also be investigated on the basis of archival sources.

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