

The Role of the Jurists and Judges in the Islamic Empire of Songhai During the Reign of King Askiya Muḥammad al-Ḥājj

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ABSTRACT

The Songhai Empire is regarded as one of the biggest and oldest empires in Africa; its formation, according to historians, dates back to the times of the Ghana Empire, in a small village by the name “Kukiya.” This small community in Kukiya started growing day after the other, until its star had risen among the warriors of the Sunni dynasty; the dynasty that had freed that community from the Malian Empire. However, this community expanded rapidly until it reached its peak and became a huge empire. More interestingly, it reached its golden age under the ruler Askiya Muḥammad al-Ḥājj, a period that witnessed a massive intellectual advancement, peace, stability, and prosperity, and above all, the establishment of Islamic governance. By examining the accounts on the establishment of the Islamic government, the praises and the credits were always in favor of King Askiya. Meanwhile, deep under, there are the judges, who stood firm and supported him, before and after he acceded to power. From this background, this paper aims to challenge the circulating narrative of attributing the establishment of the Islamic government to Askiya, while the judges had their share in this project. Further, it is not a means of undermining Askiya’s effort, but just to address the unaddressed issues regarding that. Through employing the descriptive and historical-analytical method, this paper concluded that the judges not only made contributions but also were the backbone in the establishment of the Islamic government.

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1. Introduction

“At this point, we leave Africa, not to mention it again. For it is no historical part of the World; it has no movement or development to exhibit. Historical movements in it—that is, in its northern part—belong to the Asiatic or European World...What we properly understand by Africa is the Unhistorical, Undeveloped Spirit, still involved in the conditions of mere nature, and which had to be presented here only as on the threshold of the World’s History.”¹ Georg Wilhelm Friedrich Hegel.

The African continent, like others, especially the current Western part of it, which is also known as al-Sudan al-Gharbi, Bilad al-Sudan, or Bilad al-Takrur, has witnessed the rise of empires that have flourished in several forms of civilizations, including political, economic, and scholarly. The Songhai Empire is regarded as one of the biggest and oldest empires in Africa; its formation, according to historians, dates back to the times of the Ghana Empire, in a small village by the name “Kukiya.” This small community in Kukiya started growing day after the other, until its star had risen among the warriors of the Sunni dynasty; the dynasty that had freed that community from the Malian Empire. However, this community had expanded rapidly until it reached its peak and became a huge empire. More interestingly, it reached its golden age under the ruler Askiya Muḥammad al-Ḥājj, a period that witnessed a massive intellectual advancement, peace, stability, and prosperity, and above all, the establishment of Islamic governance. The Songhai Empire is regarded as one of the biggest and oldest empires in Africa; its formation, according to historians, dates back to the times of the Ghana Empire, in the seventh century, in a small village by the name “Kukiya.” This small community in Kukiya started growing day after the other, until its star had risen among the warriors of the Sunni dynasty; the dynasty that had freed that community from the Malian Empire. However, this community had

¹ Ousmane Kane, *Beyond Timbuktu: An Intellectual History of Muslim West Africa* (Cambridge: Harvard University Press, 2016).



expanded rapidly until it reached its peak and became a huge empire. More interestingly, it reached its golden age under the ruler Askiya Muḥammad al-Ḥājj, a period that witnessed a massive intellectual advancement, peace, stability, and prosperity, and above all, the establishment of Islamic governance

Although the Songhai Empire under the reign of the king, Askia Al-Ḥājj Muḥammad, was recognized for its establishment of Islamic governance and the advancement in intellectual movements, particularly the development of the Maliki school of thought. Yet, the works in this area, which focused on the establishment of Islamic governance, always sent praises to King Askia al-Ḥājj Muḥammad; meanwhile, he was just the other side of the coin; the contribution of the scholars, particularly the judges, was the second side of the coin. From this point, this paper deals with the contribution of the judges in the formation Islamic government under Askiya's regime. This study aims to examine the relationship between the authority and the religious body (jurists) during the reign of Askia Muhammad in the Songhai Empire. And also, to analyze the role played by the jurists in establishing and unifying the Islamic governance of the empire under King Askia Muhammad.

This study tries to answer these questions: What were the features of Islamic governance in the reign of Askia? What was the relation between the power and the judges during that era? How did the judges influence and unify the Islamic governance under Askia Muhammad's reign?

This employs a descriptive and historical-analytical method to know how the Islamic governance was, and how the jurists operated during the era of Askia Muhammad. It would also help in tracing the historical events and narrations, and analyzing them critically. By focusing on the primary sources, such as *Tārīkh al-Sūdān* by Abdu Raḥmān al-Sa'adī, and "*Tārīkh al-Fattāsh*" by al-Shaikh Maḥmūd Ka'at, and the secondary sources, this study tries to provide insights into the functioning of the Islamic governance and the vital role played by the religious body in its establishment.

This paper was built on several works with different directions; some such as “Askiya al-Ḥājj Muḥammad and his Successors; The Account of al-Imām al-Takrūrī” by Hanwick, and “Askia Muḥammad Muḥammad and his Qabīla; Name and Province,” by Stephan Bühnen, and “Beyond Timbuktu Intellectual History of Muslim West Africa,” by Omar Kane, and “From Mande to Songhay: Towards a Political and Ethnic History of Medieval Gao,” by Dierk Lange, and “Rulers, Scholars, and Invaders: A Select Bibliography of the Songhay Empire,” by Brent Singleton.

All of these works are relevant and have contributed significantly to the history of Songhai, but they did not analyze the role of the judges and jurists in the establishment of Islamic Governance under Askiya’s reign.

However, few works have a strong connection to my paper; the work “Love for Three Oranges, or, the Askiya's Dilemma: The Askiya, al-Maghīlī and Timbuktu,” a study that challenges the traditional idea that religious transformation in Songhai, especially under al-Maghīlī, happened quickly and outside-driven process, arguing that it was a gradual, durable process that took generations to establish, with al-Maghīlī's influence waning over time. In our context, we agree that religious transformation is a gradual process, but it should be noted that Askiya was not the one who introduced Islam to the Songhai community; it had been known to them since the first dynasty that ruled it, but it reached its peak under the reign of Askiya. Further, al-Maghīlī’s influence is undeniable, given the time he arrived in Gao, under a ruler who prioritizes religion and its figures, and his replies to Askiya concerning governing in accordance with Islamic teachings are significantly evident. In the article, “Secular Power and Religious Authority in Muslim Community: The Case of Songhai,” the author challenged the notion of Timbuktu’s independence during Songhai, and contended that Timbuktu didn’t have any substantial independent religious or political authority over Gao, and that Gao had tight control over it. Indeed, Timbuktu had no political autonomy, but its significance to the capital ensured its autonomy; in the sense that it



served as the home for the religious figures who brought Askiya into power, and the home of the chief justice; who's opinion is counted when tries to appoint a judge, and oppose any political order that contradicts with Islam norms.

2. The Rise of Askiya Muḥammad al-Ḥājj to Power and the Nature of His Government

The Songhai Empire had witnessed three ruling dynasties: the one was the dynasty of *al-Azwā'* / *Zā*, originally from Yamen, its first ruler was *Zā al-Aiman*². During this period, the empire was a very small state in Kukiya under the Mali Empire's authority. Additionally, it can be inferred that the first dynasty to rule the empire originated from the Yamen. According to some accounts, even though the beginning of Songhai is not clear, it can be traced back to "*Dendi*," which is located south of Gao, where the tribe of *Soroko*, fishermen experts, and the Gao, experts in hunting and farming, used to live in the village. The fishermen, after a while, were able to establish their dominance over the hunters and farmers in the "*Kukiya*" village. This early political transformation marked the beginning of Songhai's history and laid the foundations for the later changes in the leadership, which led to the rise of Askiya Muḥammad al-Ḥājj to power.³

This claim could not be further from the truth, due to the fact that the first ruler from the dynasty of *al-Azwā'*, according to 'Abd al-Raḥmān al-Sa'adī: "As for the first king, *Zā al-Aiman*, it was said that he and his brother left Yemen, walking in the land of God Almighty, until fate brought them to the country of Kukiya.....They reached it in a state of disrepair, and they descended upon the people of the country..."⁴

² According to al-Sa'adī, the author of the book "*Tārīkh al-Sūdān*," the origin of the name came from "*Jā'a min al-Yaman*," which literary means he came from Yaman.

³ "Adebayo, Y.K. and Ajao, M.G, 'MANAGEMENT PRACTICES IN SONGHAI EMPIRE: THE LINK WITH CONTEMPORARY METHODS,'" n.d.

⁴ "Al-Sa'adī, 'Abd al-Raḥmān Bn Nāṣir, '*Tārīkh al-Sūdān*'. n.d.," n.d.



Based on this, it can be concluded that the empire was not initiated by *al-Azwā*'s clan, nor for they the first rulers. However, according to al-Sa'adī, the indigenous people of the village handed them the authority after the entire village converted to Islam through them.

Later on, after the clan of *al-Azwā*', the dynasty of Sunnis, who were able to eliminate the Malian Kingdom and establish their own as an independent one, succeeded the *al-Azwā*' dynasty in ruling. And their first rulers were Sunni 'Ālī and his brother Sulaimān Nār. It is important to note that the capital city was moved from Kukiya to Gao during the Sunnis dynasty. Further, until Sunni 'Ālī Ber took over the power, the kingdom remained a small state and did not develop into a polyethnic empire, albeit with its independence from the Malian Empire. And lastly, the dynasty of *Asāḳī* followed the Sunnis in ruling, under the ruler Askiya Muḥammad al-Ḥājj.⁵

Another point that needs clarification is that the transmission of the capital from Kukiya to Gao was accomplished by the *al-Azwā*' clan, not by the Sunnis, as some accounts assert. Following the escape of the brothers, Sunni 'Ālī and Sulaimān Nār, who were hostages from the Malian Empire, they fled toward Gao. This suggests the presence of the Songhai people in the area, marking the decline of the *al-Azwā*' clan and the rise of the Sunnis under the ruler, Sunni 'Ālī.

Regardless of the developments that occurred in the empire during the Sunnis' reign, especially under the powerful and great ruler, Sunni Alī Ber, who took over in 1464 CE, he abandoned the raiding policies of his predecessors and focused on territorial conquest. He had a well-organized army, which included a flotilla on the Niger, foot soldiers, and cavalry. Throughout his reign, he patrolled the Niger region, surprising enemies and imposing his authority through violence and fear. Sunni 'Alī was a great magician and charismatic figure, earning the title of "the most high." He conquered

⁵ "Contributions of Scholars and Judges in Religious Celebrations in the Kingdoms of Mali and Songhai (628-1000 AH / 1230-1591 AD)," n.d.



Jenne, Timbuktu, the Tuareg, and led expeditions against the Dogon, Mossi, and Bariba.⁶ Yet, it was under the Asākī's clan that the empire reached its peak of prosperity and glory, particularly under the reign of the ruler Askiya Muḥammad al-Ḥājj, who was able to reinforce peace and stability in the empire.

One factor that may have caused this was Sunni 'Ālī Ber's attitude towards the religious bodies, especially those in Timbuktu. Despite being a Muslim who performs all the Islamic rituals, including fasting and prayers, he encountered significant problems with them. A large number, particularly the Sanhāja, fled to Walata, while those who remained, along with their family members, were either tortured, imprisoned, or slaughtered. In his brutality, Sunni 'Ālī Ber was compared to the Turko-Mongol conqueror Tamerlane and al-Hajjaj, the Umayyad governor of Iraq. He dealt swiftly with anyone who disagreed with him or threatened his imperial vision for the empire, whether they were Muslims or non-Muslims, scholars or ordinary people.⁷ 'Abd al-Raḥmān al-Sa'adī, one of the Timbuktu scholars, described him by saying:

“As for the greatest oppressor and most notorious wicked man, Sunni 'Ālī Ber, he was a man of great power and immense strength. He was an unjust, immoral, transgressor, a tyrant, and a bloodthirsty individual. He killed several people that no one can count except Allah, and he subjected scholars and righteous people to murder, humiliation, and degradation...”⁸

After the death of Sunni 'Ālī Ber, his son, Sunni Baru, was crowned his successor and the king of the Songhai, but unfortunately for him, due to his policies and his refusal of sincerity to Islam, and to recognize it as the religion of the empire, he encountered

⁶ Djibril Tamsir Niane and Unesco, eds., *Africa from the Twelfth to the Sixteenth Century*, General History of Africa 4 (London: Berkeley, Calif: Heinemann; University of California Press, 1984). Michael A. Gomez, “Timbuktu Under Imperial Songhay: A Reconsideration of Autonomy,” *The Journal of African History* 31, no. 1 (March 1990): 5–24, <https://doi.org/10.1017/S0021853700024750>.

⁷ “Shari‘a in Songhay The Replies of Al-Maghīlī to the Questions of Askia Al-Ḥājj Muḥammad (Muhammad Ibn,” n.d. Niane and Unesco, *Africa from the Twelfth to the Sixteenth Century*.

⁸ “Al-Sa'adī, 'Abd al-Raḥmān Bn Nāṣir, 'Tarīkh al-Sūdān'. n.d.”



a strong opposition party, led by Askia Muḥammad al-Ḥājj by the support of the religious bodies and the strongest commanders, which resulted to a revolution against the ruling government.⁹ According to some scholars, Askia Muḥammad al-Ḥājj and his supporters planned a rebellion against the Sunni Baru's regime, and the usurpation of his authority was intentionally meant.¹⁰ Some have even gone further, to the extent of accusing him of being the murderer of Sunni 'Ālī Ber.¹¹

However, it can certainly be concluded that the opposition party, led by Askia Muḥammad al-Ḥājj, while the Sunni clan was going through a political crisis, seized the opportunity and took over power. By doing so, that marks the end of the Sunni dynasty, and the beginning of a new chapter of glory, peace, and stability in Songhai history, written by the dynasty of *Asākī* beginning with the reign of Askia Muḥammad al-Ḥājj.

Askia Muḥammad al-Ḥājj was not fully from the Songhai origin; his mother was a Songhai, and as reported, the sister of the king, Sunni 'Ālī Ber. However, on the father's side, he was a descendant of the Soninke origin, from the clan of Ture or Sylla. He was a devout Muslim, a balanced and moderate individual, and a forward-thinking politician.¹²

Unlike his predecessor, Sunni 'Ālī Ber, Askia Muḥammad focused upon his accession to power on unifying the kingdom, through rearranging the political relations with the Western part of the kingdom, a region that experienced a lot of issues under the Sunnis regime, to regain the support and the confidence which has been scattered by Sunni

⁹ Lansiné Kaba, "The Pen, the Sword, and the Crown: Islam and Revolution in Songhay Reconsidered, 1464–1493," *The Journal of African History* 25, no. 3 (July 1984): 241–56, <https://doi.org/10.1017/S0021853700028152>.

¹⁰ Joe Wilson, "In Search of Askia Mohammed: The Epic of Askia Mohammed as Cultural History and Songhay Foundational Myth," n.d.

¹¹ "Sharī'a in Songhay The Replies of Al-Maghīlī to the Questions of Askia Al-Ḥājj Muḥammad (Muhammad Ibn.)"

¹² Stephan Buhnen, "ASKIYA MUḤAMMAD I AND HIS QABĪLA: NAME AND PROVENANCE," n.d. Niane and Unesco, *Africa from the Twelfth to the Sixteenth Century*. "Sharī'a in Songhay The Replies of Al-Maghīlī to the Questions of Askia Al-Ḥājj Muḥammad (Muhammad Ibn.)"



‘Ālī Ber. Moreover, maintaining the peace and the stability of the Western regions means boosting the economic activities of the area; by this kind of global trade could serve as the foundation for maintaining the armies, bureaucrats, and imperial family of the vast kingdom that Songhai had grown into.¹³

It seemed that Askia Muḥammad’s ambitions were limitless: under his reign, he prepared an organized army for the kingdom, benefited from previous experiences, and these expeditions took an Islamic appearance, declaring Jihad. He succeeded in expanding the territories of the empire's hegemony as far north as the Sahara; west as far as the Senegal-Faleme confluence; and east into the Hausa-land city-states, where he and his successors faced fierce opposition from groups like Zaria, Kano, Katsina, and Kebbi. They also fought an unexpected war with Bornu to exert influence over the remaining Hausa polities. The salt mines at *Taghaza*, *Agades*, *Futa Kingui*, *Baghana*, and most likely *Takedda* all collapsed quickly between 1499 and 1510.¹⁴

Askia Muḥammad organized the empire accordingly: he appointed *Qādīs* to all the provinces, reorganized the court, established protocol, set standards for the *‘ulamā’* and *Qādīs*, created new provinces, and substituted Sunni appointees with loyal men to him; a governor of Bal, who is charge of the Tuareg lands and the areas of the northwest; a governor for *Banku* supervising the areas between the capital and Timbuktu; a governor for *Dendi* who was charged with east areas to the lake of Chad; and the governor who controlled the Arab areas that extend to *Takrūr*.¹⁵ Askia was an intelligent ruler, curious about everything happening in the empire. He promoted

¹³ “Ka’at, al-Ḥājj Maḥmūd, “Tārīkh al-Fattāsh Fī Akhbār al-Buldān Wa l-Juyūsh Wa Akābir al-Nās Wa Dhikri Waqā’i al-Takrūr Wa ‘azā’im al-Umūr Wa Tafrīq Ansāb al-‘abīd Mīn al-Aḥrār,” Edt: Dr. Adam Bamba, Mu’assasa al-Risāla Nāshirūn.,” n.d. “Sharī’a in Songhay The Replies of Al-Maghīlī to the Questions of Askia Al-Ḥājj Muḥammad (Muhammad Ibn.”

¹⁴ Niane and Unesco, *Africa from the Twelfth to the Sixteenth Century*. Gomez, “Timbuktu Under Imperial Songhay.”

¹⁵ There were different narratives concerning the number of the new provinces and the governors appointed to those areas. It might be that the data we provided up there focused only on the major provinces, while others included non-major provinces.



trade, which made the empire much richer, and to keep things accordingly, he promoted a workforce of market inspectors, followed by the Qādīs, to implement justice. He encouraged farming by creating a huge farming sector and lowering the produce tax. By giving presents or pensions to the ‘Ulamā’ and, more importantly, by treating them with dignity, he promoted the advancement of knowledge.¹⁶

His strategy was to use Islam as a fundamental structure for his governance, utilizing the establishment of Muslims to affirm his popular legitimacy. In this regard, in addition to the eminent attention and respect he shows to religious figures, especially those from Timbuktu, he also visits them in their homes and extends special honors to their pilgrims upon their return. His generous gestures toward them were often in the form of monetary or in-kind gifts, including slaves. This policy likely aims to have both internal and external effects. Internally, the support and respect he demonstrated toward religious figures helped maintain the allegiance of substantial portions of the populace. Externally, his reputation for fairness and charity enhanced his image as the pilgrim-king and the legitimate representative of the caliph of all Muslims in a Sahelian context. Following his return from pilgrimage, he received the final orthodox endorsement as “Amīr al-Mu’minīn,” the Commander of the Faithful, and “Khalifa of the Muslims,” and his kingdom was regarded as part of the Islamic abode “Dār al-Islām.”¹⁷

¹⁶ “Dr. Ḥasan Aḥmad Maḥmūd, ‘al-Islām Wa al-Thaqāfa al-‘Arabiyya Fī Afrīqiya,’ Dār al-Fikr al-‘Arabī, Cairo, n.d,” n.d. Niane and Unesco, *Africa from the Twelfth to the Sixteenth Century*. “Adebayo, Y.K. and Ajao, M.G, ‘MANAGEMENT PRACTICES IN SONGHAI EMPIRE: THE LINK WITH CONTEMPORARY METHODS.’” Charlotte Blum and Humphrey Fisher, “Love for Three Oranges, or, The *Askia*’s Dilemma: The *Askia*, al-Maghīlī and Timbuktu, c. 1500 A.D.,” *The Journal of African History* 34, no. 1 (March 1993): 65–91, <https://doi.org/10.1017/S0021853700033004>.

¹⁷ “Ka’at, al-Ḥājj Maḥmūd, “Tārīkh al-Fattāsh Fī Akhbār al-Buldān Wa l-Juyūsh Wa Akābir al-Nās Wa Dhikri Waqā’i al-Takrūr Wa ‘azā’im al-Umūr Wa Tafriq Ansāb al-‘abīd Min al-Aḥrār,” Edt: Dr. Adam Bamba, *Mu’assasa al-Risāla Nāshirūn*.” “Sharī’a in Songhay The Replies of Al-Maghīlī to the Questions of Askia Al-Ḥājj Muḥammad (Muhammad Ibn.”



3. The Judicial System During the Reign of Askiya Muḥammad al-Ḥājj:

It can be concluded from the above section that Askiya Muḥammad al-Ḥājj, despite the changes in governance and the new policies he introduced, including centralizing the government, boosting agriculture, creating new provinces¹⁸, and establishing unparalleled military forces, he centered his administration around religious figures, particularly the jurists. This is evident in his relationship with them, the immense respect he showed, and the kindness he extended towards them. More specifically, it has been illustrated in his pilgrimage journey to Mecca, as a huge number of ‘Ulamā’ and jurists accompanied him, and met up with some prominent figures, including the Qur’anic exegete, Jalāl al-Dīn al-Suyūṭī. al-Sa’dī mentioned while narrating his journey to Mecca, “.... Then he met many scholars and righteous people, including Jalāl al-Dīn al-Suyūṭī, and he asked them concerning some of his affairs, and they gave him answers (Fatwā) on them....”¹⁹

It is worth noting that there was no codified law concerning the judicial system, and defining the rules and roles for judges, in Western African regions (al-Sūdān al-Gharbī). The judicial system back then was based on the customs and traditions they inherited from their forefathers, and was deemed as fixed laws for the judicial system. However, the king, personally, was the one who assumed the role of high judge, or chief justice, in the modern sense. With the embrace of Islam, those kingdoms started implementing the Islamic law, and the ‘ulamā’ and jurists played a vital role in clarifying the Islamic laws regarding what people did in their daily social and practical lives.²⁰

¹⁸ Before Askia I, it was common practice for the conqueror of any conquered kingdom to take along with him the sun of the defeated king to his palace, in order to maintain his loyalty and faithfulness. However, Askia, after he got power, abolished that practice and appointed governors to the newly conquered areas.

¹⁹ “Al-Sa’adī, ‘Abd al-Raḥmān Bn Nāṣir, ‘Tarīkh al-Sūdān’. n.d.”

²⁰ “Maiga, Abūbākr Ismā’īl, ‘al-Ḥaraka al-‘Ilmiyya Wa al-Thaqāfiyya Fī al-Sūdān al-Gharbī Fī ‘Ahd al-Mamālik al-Islāmiyya: Ghāna, Mālī, Songhāi, Allatī Qāmt Fī Gharb Ifrīqiya Baina al-Qarn al-Rāb‘i al-Hijrī Wa l-Ḥādī ‘Ashar al-Hijrī,’ Maktabat al-Tawba, Riyadh. 1997, Pp: 268-270”.



Given the necessity of the judiciary, Askiya Muḥammad al-Ḥājj has reorganized the Islamic court, set standards for the 'ulamā' and qādīs in the court, and appointed qādīs in all the provinces across the kingdom to implement justice. By doing so, the judicial system reached its peak in organization during his reign. Maḥmūd Ka'at, while describing him, said: "He was one of the wisest and most intelligent people, humble towards scholars, and devoted his life and money to them... and established the religion most perfectly... He renewed the religion and established judges and Imāms."²¹

Askiya Muḥammad al-Ḥājj himself took the responsibility of appointing the judges for each city across the kingdom, and they were appointed based on meeting specific conditions; he selected them from among the 'ulamā' and jurists who were well-knowledgeable in the Mālikī school of thought, well-known to the public for their knowledge and righteousness as well as jurisprudence (*Fiqh*) and piety. He was eager to select the most qualified and pious scholar who attained the level of Ijtihād (legal reasoning) in the Mālikī school of thought. The appointment of a judge, or the swearing in, in the modern sense, takes place on a solemn day, in the grand mosque after prayers, in full view of the public, including the prominent scholars, righteous people, and the high ranked members in the kingdom, and the presence of the king. The chosen jurist, whom the king wishes to designate and confer upon him the duty of judge, steps forward after the prayers and swears an oath before the king by Allah that he will abide by the rulings of the holy Qur'an, the rulings of the Prophet, the rulings of the caliphs, and the opinions of the scholars who succeed them, and that he will not fear the blame of anyone for the sake of Allah. Then he says, "*The strong in my eyes is weak; until the weak's right is taken from him, and the weak in my eyes*

²¹ "Ka'at, al-Ḥājj Maḥmūd, "Tārīkh al-Fattāsh Fī Akhbār al-Buldān Wa l-Juyūsh Wa Akābir al-Nās Wa Dhikri Waqā'i al-Takrūr Wa 'azā'im al-Umūr Wa Tafriq Ansāb al-'abīd Min al-Aḥrār," Edt: Dr. Adam Bamba, Mu'assasa al-Risāla Nāshirūn."

is strong; until his right is fulfilled.”²² Following this oath, the king would swear him in as a judge.²³

It is worth mentioning that this ceremony of swearing in judges applies only to high-ranking appointed judges and appointees in nearby cities. In contrast, the judges appointed to the far cities, however, were appointed by the judge of Timbuktu, al-Qāḍī Maḥmūd b. ‘Umar b. Muḥammad Aqīt, the chief of the judges, and they would be sworn in through an official letter from the chief of the judges.²⁴

During Askia's reign, the judge had two main duties. The first was to adjudicate between people; individuals sought judges for all their affairs, and judges, in turn, ruled on property disputes, personal status matters, inheritance issues, debts, loans, trade, and other concerns. To carry out this task effectively, the judge had assistants whom he appointed himself; they documented official letters, monitored the new moon (Hilāl committee), and conveyed the needs of the citizens to the capital. The judge's second duty was to survey the internal affairs of the city, including overseeing the properties of orphans until they reached adulthood, as well as the properties of strangers who died until their representative or legal heir arrived. He also oversaw the construction and maintenance of mosques, as well as the appointment of imams and muezzins. He assessed the progress of education in the city, appointing teachers, handling students' affairs, and providing for their needs.²⁵

²² A quotation from the inaugural speech of the caliph, Abū Bakr al-Ṣiddīq.

²³ “Maiga, Abūbakr Ismā‘īl, ‘al-Ḥaraka al-‘Ilmiyya Wa al-Thaqāfiyya Fī al-Sūdān al-Gharbī Fī ‘Ahd al-Mamālik al-Islāmiyya: Ghāna, Mālī, Songhāi, Allatī Qāmt Fī Gharb Ifrīqiya Baina al-Qarn al-Rāb‘i al-Hijrī Wa l-Ḥādī ‘Ashar al-Hijrī, Pp:279-278.”

²⁴ “Mawlāya Muḥammad, ‘al-Qaḍā’ Wa al-Qudāt Bi Bilād al-Sūdān al-Gharbī Min Awākhir al-Qarn al-Tāsi’ Hijrī Ḥattā al-Qarn al-Thānī ‘ashar Hijrī,” (PHD Thesis, Oran 1 University, Algeria, 2019, Pp:99).”

²⁵ “Maiga, ‘Abd al-Raḥmān Muḥammad, ‘al-Ḥaraka al-Fiqhiyya Wa Rijālulhā Fī al-Sūdān al-Gharbī Mīna l-Qarn al-Thāmin Ilā l-Qarn al-Thālith ‘Ashar al-Hijrī,’ Manshūrāt Wazārat al-Awqāf Wa al-Shu‘ūn al-Islāmiyya, Morocco. 2011, Pp:217”. “Maiga, Abūbakr Ismā‘īl, ‘al-Ḥaraka al-‘Ilmiyya Wa al-Thaqāfiyya Fī al-Sūdān al-Gharbī Fī ‘Ahd al-Mamālik al-Islāmiyya: Ghāna, Mālī, Songhāi, Allatī Qāmt Fī Gharb Ifrīqiya Baina al-Qarn al-Rāb‘i al-Hijrī Wa l-Ḥādī ‘Ashar al-Hijrī, Pp:283-286”



To finance these duties and projects, the judge relied on funds from the king and benefactors, as well as endowments (things set aside to benefit the community, including real estate, movable properties, and other items). The judge was responsible for distributing alms from their earnings to the needy, students, etc. With the assistance of the employees, the judge administers these endowments. Furthermore, he uses the Zakāt collected to pay the salaries of staff members across the city.²⁶

Among the most famous individuals who held the position of judge during the reign of King Askia Muhammad al-Hajj (the emphasis here is on mentioning the famous and senior judges, in the three big regions of the kingdom, i.e, Gao, the capital, Timbuktu, and Djenne):

1. Judge of Timbuktu, Chief Justice, Maḥmūd bn. ‘Umar ibn Muhammad bn. ‘Alī bn Yaḥyā al-Ṣanhājī; His knowledge and integrity were well-known across the kingdom, and his reputation spread far and wide; His piety and justice were evident in his judicial career. His son, the jurist, Aḥmad Bābā al-Tumbuktī, said about him:

“The judge of Timbuktu, Abū al-Thanā’, Abū al-Maḥāsin,²⁷ the scholar of Takrūr, its righteous man, its teacher, its jurist, and its undisputed Imām; he was one of the best of God’s righteous servants, with great steadfastness in matters, complete guidance, dignity, and majesty.... He took over the judiciary in the year 904 H²⁸ He was strict in matters and sought the truth in his rulings; his justice was evident to the point that he was unparalleled in his time... He performed the Hajj

“Mawlāya Muḥammad, ‘al-Qaḍā’ Wa al-Quḍāt Bi Bilād al-Sūdān al-Gharbī Min Awākhir al-Qarn al-Tāsi’ Hijrī Ḥattā al-Qarn al-Thānī ‘ashar Hijrī, Pp:113-117”

²⁶ “Maiga, Abūbākr Ismā’īl, ‘al-Ḥaraka al-‘Ilmiyya Wa al-Thaqāfiyya Fī al-Sūdān al-Gharbī Fī ‘Ahd al-Mamālik al-Islāmiyya: Ghāna, Mālī, Songhāi, Allatī Qāmt Fī Gharb Ifrīqiyyā Baina al-Qarn al-Rāb‘i al-Hijrī Wa l-Hādī ‘Ashar al-Hijrī,’ Pp:294.”

²⁷ A highly respected person, and virtuous.

²⁸ Approximately, at the start of the 16th century.

and met prominent figures, such as Ibrahim al-Maqdisī, Shaikh al-Qalqashandī, and others...”²⁹

2. Judge of Djenne: Judge Muḥammad Fūdī Sāqū al-Wankarī; al-Sa‘adī said about him: “He was a knowledgeable, pious, and righteous jurist... The first judge that Askiya Muḥammad al-Ḥājj appointed as a judge of Djenne after his return from Hajj, and he was the first judge to decide between people in accordance with Islamic law.”³⁰
3. Among the prominent judges in the Gao region during Askiya Muḥammad al-Ḥājj’s reign, the Moroccan in origin, from *Tlemcen*, the Judge, Imām Muḥammad bn ‘Abdu l-Karīm al-Maghīlī. He was a mufti and advisor to Askia in Gao and made significant efforts to correct some misconceptions and direct the kings to govern in accordance with the Sharī‘a and the Prophetic Sunna. He was one of the greatest scholars and most pious. He was extremely resilient in enjoining what is right and forbidding what is wrong...³¹

These are just only handful among a lot of judges who held the position of judge during Askiya’s reign, and the notable aspect from their brief biographies is that they all met the qualifications and criteria set by King Askiya for assuming the position of

²⁹ “Al-Tumbuktī, Aḥmad Bābā, ‘Nail al-Ibtihāj Bitatṛiz al-Dībāj,’ (Edt: ‘Abdul Ḥamīd al-Harāma), Dār al-Kātib, Tripoli, 2000, Pp:607”. “Makhlūf, Muḥammad ‘Shajarat al-Nūr al-Zakiyya Fī Ṭabqāt al-Mālikiyya,’ (Edt: Muḥammad Khayālī), Dār al-Kutub al-‘Ilmiyya, Bairūt, 2003, Vol:1, Pp:402”. “Al-Bartalī, Abū ‘Abdullāh al-Tālib, ‘Fath al-Shakūr Fī Ma‘rifat A‘yān ‘Ulamā’ al-Takrūr,” (Muḥammad Ḥajjī and Muḥammad Ibrāhīm al-Kattānī), Dār al-Gharb al-Islāmī, Bairūt, 1981 Pp:178”.

³⁰ “Al-Sa‘adī, ‘Abd al-Raḥmān Bn Nāṣir, ‘Tarīkh al-Sūdān’. Pp:17.” “Maiga, ‘Abd al-Raḥmān Muḥammad, ‘al-Ḥaraka al-Fiqhiyya Wa Rijālūhā Fī al-Sūdān al-Gharbī Minā l-Qarn al-Thāmin Ilā l-Qarn al-Thālith ‘Ashar al-Hijrī,’ Pp:220”

³¹ “Al-Tumbuktī, Aḥmad Bābā, ‘Nail al-Ibtihāj Bitatṛiz al-Dībāj,’ (Edt: ‘Abdul Ḥamīd al-Harāma), Dār al-Kātib, Tripoli, 2000, Pp:576”. “Ibn ‘Askar, ‘Dawḥat al-Nāshir,’ (Edt: Muḥammad Hajjī), Rabat 1997, Pp:130”. “Makhlūf, Muḥammad ‘Shajarat al-Nūr al-Zakiyya Fī Ṭabqāt al-Mālikiyya,’ (Edt: Muḥammad Khayālī), Dār al-Kutub al-‘Ilmiyya, Bairūt, 2003, Vol:1, Pp:395”.

judge; they were all prominent scholars whose knowledge and righteousness were well-known to the people.

Because the judges during Askiya's reign were selected based on their proficiency in the Mālikī school of thought, the sources of the judicial legislation will certainly be based on the Mālikī school of thought. The Mālikī school of thought spread across the Western African regions since the era of the Mali Empire (the empire before Songhai), due to the efforts of its rulers, particularly Mansa Musa³² to support and spread it; during his reign, the Mālikī school flourished, due to his piety, knowledge, and pride in his affiliation with it. It is reported that he explicitly stated that he is a Mālikī when he visited Cairo. In addition to his Mālikī affiliation, he was keen to meet with Mālikī jurists and strengthen ties between him and them. He also strengthened the relationship between his state and the state of Morocco, which led to the arrival of many Moroccan Mālikī jurists to his kingdom.³³ Despite the efforts made by the rulers of Mali to spread the Mālikī school, the Songhai government, and especially during King Askiya's, who was committed to the teachings of Islam and loved knowledge and scholars, unlike his predecessor, Sunni 'Alī, who subjected scholars and clerics to utmost persecution, leading many of them to flee to other regions, is considered the golden age of the Mālikī school's spread in the region. With King Askiya's ascension to power and the establishment of an Islamic order in the kingdom, the status of jurists rose, and they were accorded full respect and freedom, which led them to work to spread the Mālikī school throughout the kingdom. Timbuktu subsequently became an important center for Mālikī jurisprudence, attracting numerous students and jurists from across the kingdom.³⁴

³² He ruled the Mali Empire from 1312 to 1337 CE.

³³ "Marjān, Saḥar 'Antar Muḥammad, "Fuqahā' al-Mālikiyya Wa Āthāruhum Fī Mujtama' al-Sūdān al-Gharbī Fī 'ahdai Mālī Wa Songhāi," Maktabat al-Thaqāfa al-Dīniyya, Cairo, 2011, Pp:67-73". Kane, *Beyond Timbuktu*.

³⁴ "Marjān, Saḥar 'Antar Muḥammad, "Fuqahā' al-Mālikiyya Wa Āthāruhum Fī Mujtama' al-Sūdān al-Gharbī Fī 'ahdai Mālī Wa Songhāi," Pp:82-90."



According to some writers, customary law was one of the judicial legislation sources during Askiya's reign; after the advent of Islam in the region, there were still some customs that contradicts the tenets of Islam, but as the nature of the region, relatively new to Islam, and cultural differences to the communities that have long embraced Islam, the jurists reconcile the Maliki school provisions with customs of the community, and as time goes on, those customs had remained and emerged, and jurists' authority was restricted, focusing on less burdensome jurisprudential solutions to address social errors.³⁵

Although the variation of the periods and locations may result in variation in Islamic provisions, it seems that the reality of the nature of Askiya's governance is against this argument; Askiya, a ruler who came to power illegally, the then ruler was not full adhere to Islamic teachings; sought advice from the prominent Egyptian scholars on how to govern his kingdom per Islamic principles on his way to pilgrimage; forbid, according al-Sa'adī and Mahmūd Ka'at, all the contradictories to Islam upon his return from pilgrimage; used Islam as a fundamental structure for his governance; selects the most pious and knowledgeable to serve as a judge, swears him in after taking an oath promising that he will abide the rules Allah and his messenger, and that he will forbid evil. Given the fact that he was legitimized as a representative of the caliph of all Muslims after his pilgrimage, it can be argued that the above-mentioned account was before his pilgrimage journey, as after being authorized by the scholars as caliph, the reality would totally contradict the above account.

³⁵ "Mawlāya Muḥammad, "al-Qaḍā' Wa al-Quḍāt Bi Bilād al-Sūdān al-Gharbī Min Awākhir al-Qarn al-Tāsi' Hijrī Ḥattā al-Qarn al-Thānī 'ashar Hijrī," (PHD Thesis, Oran 1 University, Algeria, 2019) Pp:92."



4. Judges in the Establishment of the Islamic Governance:

Religious leaders, particularly judges, held a distinguished place in Western Sudanese communities, especially under Askiya's rule. Askiya was renowned for his kindness and generosity towards them. Whenever they visited him, he would sit them beside him. He also commanded that no one should stand except for pilgrims and scholars, and that only scholars and nobles were permitted to dine with him. In addition to their duty as religious guides and adjudicators among the people, they played a vital role in the formation of Islamic governance, which historians have always praised Askiya for. Below are the major roles played by the judges in the establishment of Islamic governance:

1.1. Creation of Opposition Party Against the Regime:

First of all, the most circulated narration concerning Askiya's rise to power suggests that he had a desire for ruling since Sunni Ali's era, which led him to seize the opportunity, after Sunni's son came to power, to form a strong opposition party, resulting in his accession to power after rebelling against Sunni's successor. However, with deep analysis, it can be argued that the narration is opposite; it was the scholars who formed the opposition party, with the help of Askiya, who was a general commander at that time.

Let's return to Sunni Ali's era; after conquering Timbuktu and Djenne, the scholars didn't directly flee to other regions until he began his brutality towards them. This brutality arose because they opposed some of his policies that contradicted Islam. And the autocrat ruler, Sunni Ali, despite being a Muslim, dealt swiftly with anyone who disagreed with him or threatened his imperial vision for the empire, whether they were Muslims or non-Muslims, scholars or ordinary people.³⁶ From this view, and with modern political eyes, it is possible that the scholars fled not only to save their lives

³⁶ Niane and Unesco, *Africa from the Twelfth to the Sixteenth Century*. "Sharī'a in Songhay The Replies of Al-Maghīlī to the Questions of Askia Al-Ḥājj Muḥammad (Muhammad Ibn.)"



but also to create a strong opposition party capable of confronting the tyrannical regime.

Furthermore, after Sunni Ali's death, the opposition party did not act immediately; it took them several months to do so. While there may be multiple interpretations of this delay, we strongly believe that the opposition party wanted to see whether he, the successor, would govern according to Islamic norms. Lansiné Kaba observed that the revolution against Sunni Ali's son was justified by religion: "For the Muslims, Sonni Baru's threefold public refusal to swear allegiance to Islam and to acknowledge it as the official religion justified rebellion..."³⁷ It is clear that the scholars used Sunni Baru's stance to legitimize their support for the revolution against him, framing it as a religious duty to depose and replace a ruler who is not committed to Islam. This religious justification by the opposition party played a vital role in uniting the population against Sunni Baru and marked the establishment of Islamic governance under Asaki's dynasty.

1.2. Autonomy of the Judges:

One factor that resulted in the establishment of Islamic governance in Askiya's reign was the autonomy of the judges. Askiya, although was known for his piety and commitment to Islam, a thing that was illustrated in his strategic plan of government, and his relationship with the judges, the immense respect he showed, and the kindness he extended towards them, to the extent that he was endorsed by them upon his return from pilgrimage as "*Amīr al-Mu'mnīn*," the Commander of the Faithful, and "Khalifa of the Muslims," and his kingdom was regarded as part of the Islamic abode "*Dār al-Islām*,"³⁸ had no authority and control over the judges and the judicial system. It was because of their autonomy, they forbade any action that goes against Islamic norms, whether it was committed by the king or an ordinary person.

³⁷ Kaba, "The Pen, the Sword, and the Crown."

³⁸ Niane and Unesco, *Africa from the Twelfth to the Sixteenth Century*.



The autonomy of the judges reached a level that some historians wondered who was superior, the king or the judges? According to some accounts, throughout the sixteenth century, Timbuktu, the region of jurists and judges, had no power other than that of Islamic law, and it had governed itself independently from Gao, the capital. At that time, it was only the chief justice that have the ability to release and bind.³⁹ Hanwick contends that:

“It was, perhaps, during the sixteenth century that Timbuktu enjoyed its greatest degree of independence and also of security. Though an integral part of the Songhay empire, with a governor (the Timbuktu-koi) appointed by the Askia, as well as other officials of secondary importance, and a tax-collector and be a military commander at nearby Kabara, the city, through the enormous prestige of its gadi and the veneration in which its scholars and holy men were held, managed to be virtually self-governing and to sheltered from arbitrary exactions by either Songhay officials or the desert-dwellers.”⁴⁰

This shows the kind of autonomy the judges had, and their status is more than the government appointees in the city, and the chief justice was the one with the authority, not the political figures. With this ultimate autonomy, they demonstrate their courage and their lack of fear of blame in the face of the truth.

It was reported that Askiya had once sent some of his soldiers on a mission to Timbuktu, but the chief justice expelled them. Askiya became angry and rebuked him, but when the judge told him why he did so, which is that he is doing his duty, by advising and guiding him if he made a mistake. Askiya then regretted and asked for forgiveness.⁴¹

³⁹ Gomez, “Timbuktu Under Imperial Songhay.”

⁴⁰ “Sharī‘a in Songhay The Replies of Al-Maghīlī to the Questions of Askia Al-Ḥājj Muḥammad (Muhammad Ibn.”

⁴¹ “Maiga, ‘Abd al-Raḥmān Muḥammad, ‘al-Ḥaraka al-Fiqhiyya Wa Rijāluḥā Fī al-Sūdān al-Gharbī Mina l-Qarn al-Thāmin Ilā l-Qarn al-Thālith ‘Ashar al-Hijrī, Pp:246.” “Marjān, Saḥar ‘Antar Muḥammad, “Fuqahā’ al-Mālikiyya Wa Āthāruhum Fī Mujtama’ al-Sūdān al-Gharbī Fī ‘ahdai Mālī Wa Songhāi,” Pp:149.”

1.3. Judges as religious and political counselors:

One of the most significant contributions of the judges to the establishment of an Islamic governance was serving as religious and political advisors; by doing so, they are not only guiding the king's religious affairs but also shaping the political policies to align with Islamic norms. Among the prominent judges who served as a counselor to the king was Imām Muḥammad bn 'Abdu l-Karīm al-Maghīlī, in addition to his role as a mufti and judge of Gao. al-Maghīlī had a crucial contribution in correcting some misconceptions and guiding the rulers to rule according to the Qur'an and Sunna.⁴²

Askiya directed several questions related to both political and religious affairs, and how to govern accordingly to the Qur'an and Sunna. In response, al-Maghīlī wrote a useful letter, in the form of replies, outlining the Islamic stance on the matters Askiya brought up. These replies were analyzed in the significant work of John Hunwick, by the title: "Sharī'a in Songhay: The Replies of Al-Maghīlī to the Questions of Askia Al-Ḥājj Muḥammad".⁴³

The importance of these questions is that they illustrate how committed the regime of Askiya is to Islam; Askiya, as a king, felt that being a ruler is a responsibility for which he would be held accountable before God. He makes this clear when he says: "I ask of God Most High that He aid me to bear this burden which the heavens and the earth declined to bear." The questions also reveal Askiya's desire and keenness to implement Islamic law in all social and political affairs of the kingdom.⁴⁴ This point can be a response to the claim that during Askiya's reign, there were some customs

⁴² "Mawlāya Muḥammad, 'al-Qaḍā' Wa al-Quḍāt Bi Bilād al-Sūdān al-Gharbī Min Awākhir al-Qarn al-Tāsi' Hijrī Ḥattā al-Qarn al-Thānī 'ashar Hijrī," Pp:344."

⁴³ "Sharī'a in Songhay The Replies of Al-Maghīlī to the Questions of Askia Al-Ḥājj Muḥammad (Muhammad Ibn.)"

⁴⁴ "Maiga, Abūbakr Ismā'il, 'al-Ḥaraka al-'Ilmiyya Wa al-Thaqāfiyya Fī al-Sūdān al-Gharbī Fī 'Ahd al-Mamālik al-Islāmiyya: Ghāna, Mālī, Songhāi, Allatī Qāmt Fī Gharb Ifrīqiya Baina al-Qarn al-Rāb'i al-Hijrī Wa l-Ḥādī 'Ashar al-Hijrī,' Pp:137."

that contradicted Islamic principles, but the judges, at that time, could not forbid them. Furthermore, these questions highlight the significant role the judges played in the formation of Islamic governance during Askia's reign.

5. Conclusion:

The Islamic Empire of Songhai under the reign of the king, Askia Al-Ḥājj Muḥammad, was recognized for its establishment of Islamic governance and the advancement in intellectual movements, particularly the development of the Maliki school of thought. Yet, while the works in this area focused more on the establishment of Islamic governance, the credit always goes to King Askia al-Ḥājj Muḥammad; meanwhile, he was just the other side of the coin; the contribution of the scholars, particularly the judges, was the second side of the coin. However, from this vein, this paper aims to explore the significant role played by the jurists in the formation of Islamic governance during the reign of Askia. Beyond that, the study digs deeper to contend that the judges were the backbone and the number one in the establishment of Islamic governance. By this, I'm trying to undermine the role of King Askia, but just opposing the popular narrative that focuses only on his side. Through examining the accounts, the study found that the idea of creating an Islamic government was initially from the jurists, when they opposed some of Sunni Ali's policies that contradicted the Islamic teachings, and because he threatened them by torturing and killing, they fled to different region to form a strong opposition party, that can breakdown the non-Islamic government, and frame their operation and revolution as a religious obligation to replace a ruler who is not uphold to Islam. Furthermore, the study asserts that, although Askia was known for his piety and commitment to Islam, the judges kept supporting him, correcting his mistakes, serving as a counselor to him, and responding to his questions. With this collaboration between the judges and the king, the Songhai empire witnessed its golden age under Askia's era, an era of peace, stability, and prosperity.



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