
THE TIMBUKTU MANUSCRIPTS – REDISCOVERING A WRITTEN SOURCE OF AFRICAN LAW IN THE ERA OF THE AFRICAN RENAISSANCE*

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Africa is the mother of civilisation itself ... we have our roots here.

And until we know Africa, we can never truly know ourselves.¹

1 Introduction

Seen from a broader perspective, this article represents an enquiry into a source of historical knowledge, an enquiry into our knowledge of African history and an enquiry into our knowledge of African legal history. And, as Davidson states, “for anyone who knows the beauty and value of mankind, there can be nothing more exciting and worthwhile than the study of history”.² It is crucial to bear in mind the sources of historical knowledge and, in the context of this article, the use and value of these sources in different parts of Africa. Not only should one clearly distinguish the use and value of these sources in Africa north of the Sahara and Africa south of the Sahara but, perhaps more importantly, in the context of this article, in West Africa. For Timbuktu, the focal point in this article, is a city in Mali, which is in West Africa.

What, then, are the sources of historical knowledge in Africa? Davidson discusses three sources of information and argues that each of these has given us a great deal of historical knowledge. The sources are archaeology, oral tradition and books.

* The author would like to express his gratitude to the following people at the Unisa library for their assistance in acquiring the necessary materials for the article: Karen Breckon, Cathy Lourens (for managing to secure important materials from the British Library and from universities in Michigan), Sandra Hartzler (for the digital photographs of a 1526 manuscript) and Ammi Ryke (Unisa Archives). The author also thanks Prof Gardiol van Niekerk of the Department of Jurisprudence for her extremely helpful comments and advice on both the first and second drafts of this article.

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1 Gates, Henry Louis Junior, see “Wonders of the African world” at www.pbs.org/wonders/index.html (10 July 2006). See also Imbo *Oral Traditions as Philosophy* (2002) 22.

2 Davidson *The Growth of African Civilisation: A History of West Africa 1000-1800* (1965) 1.

Archaeology, technically-speaking, is “the study of the material remains and ruins of the past, of the tools, weapons, pots, house-foundations, ancient settlements and towns that vanished peoples have left behind them”.³

The second source of historical knowledge in Africa is oral tradition. This is the history – partly legend and partly truth – which generations of ancestors have passed down by word of mouth.⁴ Just as other regions of Africa, West Africa is also rich in oral tradition and oral history. Indeed, amongst many West African peoples special groups of men learn, remember and recite the historical traditions and thereafter teach it to their sons and successors. There are differences of opinion regarding this source of historical knowledge. Miller states that an oral tradition is a narrative describing eras before the time of the person who relates it.⁵ This definition of oral tradition differs slightly from the one given by Davidson, who regards an oral tradition as any spoken report.⁶ The latter’s definition emphasises the fact of transmission by word of mouth from one person to another, while the former emphasises the narrative style.

The third source of historical knowledge is the books written by North African and Arab travellers⁷ and historians. Many such books were written by scholars in Arabic. Much later, Europeans also wrote books about West Africa in Portuguese, French, Dutch, English and other European languages.⁸

Based on the historical sources discussed above, researchers have argued that the civilisations of West Africa flourished between 1000 and 1600 AD. This was a period known as the “golden age of West African history”.⁹ In contrast, during the same period, Europe experienced the Dark Ages. During the time that Europe was torn by the Hundred Years’ War, Muslim scholars were compiling manuscripts in the comfort and security of Sankore University in Timbuktu.¹⁰ The name “Sankore University” or “University of Timbuktu” has

3 *Idem* 24.

4 *Ibid.*

5 Miller (ed) *The African Past Speaks. Essays on Oral Tradition and History* (1980) 2. This book contains an interesting collection of articles illustrating the use of African oral traditions as sources for history and how one may extract knowledge about the past from oral narratives. For an interesting essay on the American Indian oral tradition, see Peacock “Un-writing Empire by writing oral tradition. Leslie Marmon Silko’s ceremony” in D’Haen (ed) *(Un)writing Empire* (1994) 295-308.

6 (n 2) 29.

7 Perhaps the greatest and best-known of these was Ibn Battuta, who was born in Tangiers, Morocco around 1304 AD. After studying Islamic theology and completing a pilgrimage to Mecca at the age of twenty one, he travelled extensively through Africa and Asia for a period of twenty four years.

8 Davidson (n 2) 24.

9 *Idem* 27. See also McKissack & McKissack *The Royal Kingdoms of Ghana, Mali and Songhay* (1994).

10 See Hunwick *Timbuktu and the Songhay Empire. Al-Sadi’s Tarikh al-Sudan Down to 1613 and other Contemporary Documents* (1999) “Preface” lviii.

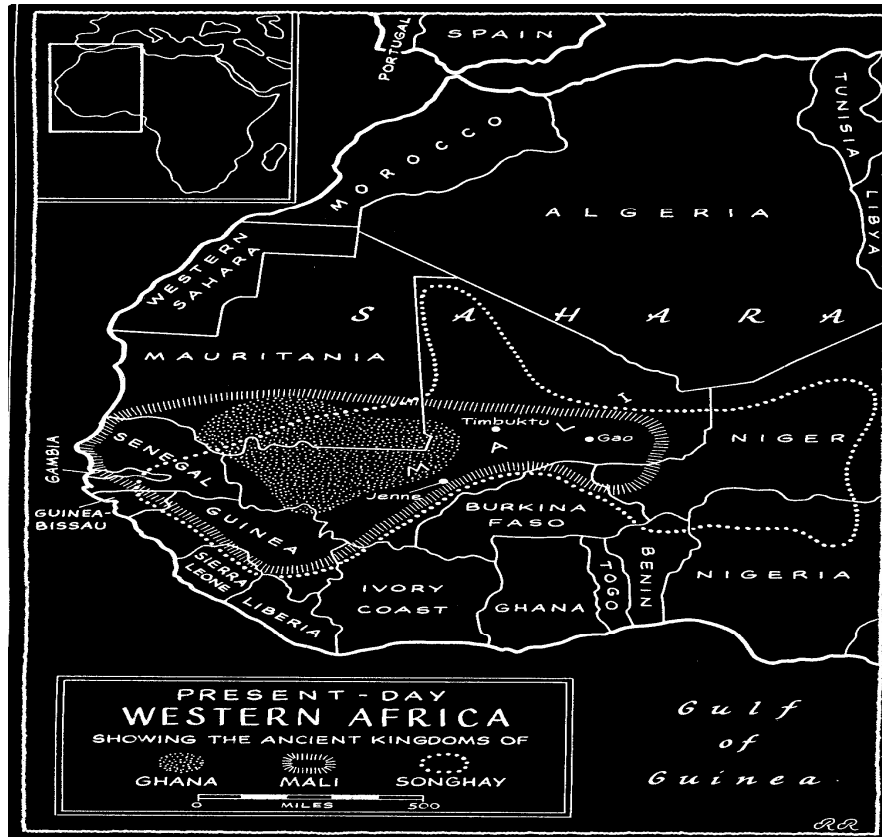
been applied to a teaching complex situated in the north-east of Timbuktu.¹¹ However, one should be wary not to compare the institution with modern-day universities. It should rather be viewed within the context of Islamic civilization at the time. The core business of the institution was the tuition of and commentary on Islamic texts. Nevertheless, one must still bear in mind that most of Africa's history, except for that of Egypt, remains largely unknown.¹²

The first scholar to write about Ghana was Al-Bakri. He lived in Cordoba in southern Spain in the eleventh century and spent most of his life compiling records, documents and interviews with hundreds of people who had visited West Africa.¹³ The Arab geographer Al-Yaqubi also wrote on the ancient state of Ghana.¹⁴ The Kingdom of Mali emerged as a dominant power in West Africa after the fall of Ghana and controlled the gold¹⁵ and salt trades from 1200-1500. The bulk of Malian history,¹⁶ transmitted from one generation to the next through oral tradition, was reduced to writing by Arab scholars.¹⁷ The Songhay lay claim to the fact that their ancestors were the original residents of the middle Niger. According to Songhay oral tradition, the middle Niger area was first occupied by two clans, the Sorko (Masters of the River) and the Gabibi (Masters of the Soil). The first written references to the Songhay people appear in the records of two tenth-century Arab scholars, Al-Yaqubi and Al-Masudi.¹⁸

2 Brief history of Timbuktu¹⁹

Timbuktu, also spelt Timbuctoo,²⁰ Timbuctu,²¹ Tinbuktu²² and Tombuto,²³ is a city in the West African country of Mali. It is located on the southern edge of the Sahara desert on the bend of the great Niger river which traverses West Africa.

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- 11 It was declared a World Heritage Site by UNESCO in 1988.
 12 McKissack & McKissack (n 9) "Author's note" xiii.
 13 *Idem* 11; see also the description of Ghana by Al-Bakri in Latham *The Heritage of West Africa* (1964) 14-16 and Davidson *West Africa Before the Colonial Era: A History to 1850* (1998).
 14 See "Uncovering an African scholarly heritage: The road to Timbuktu" at http://www.pbs.org/wonders/Episodes/Epi5/roadto_2.htm 1 (22 June 2006).
 15 See further the chapter entitled "The gold of Ghana" in Bovill *The Golden Trade of the Moors* (1968) 79-84.
 16 For a fairly recent in-depth study of early Malian history, colonial rule and post-independence, see Imperato *Mali: A Search for Direction* (1989).
 17 McKissack & McKissack (n 9) 43-45; see also the description of Mali by Ibn Khaldun in Latham (n 13) 16-18.
 18 McKissack & McKissack (n 9) 84; see further Bovill (n 15) 132-141.
 19 For a brief history of other ancient African civilisations see MacDonald "Ancient African civilisations" in Appiah & Gates (eds) *Africana: The Encyclopedia of the African and African American Experience* (1999) 91-100. See also Lange *Ancient Kingdoms of West Africa* (2004).
 20 As in the title of Dubois' work *Timbuctoo the Mysterious* (1897).
 21 See Latham (n 13) 41.
 22 See Hunwick (n 10) 29; see also the following website: <http://fp.thesalmons.org/lynn/wh-timbuktu.html> 1 (22 June 2006).
 23 See Pory *The History and Description of Africa and of the Notable Things Therein Contained* (1600) 824-826.



Map of West Africa showing location of Timbuktu

The word “Timbuktu” normally evokes an image of an unknown place or a place of exotic mystery in some far-removed corner of the earth.²⁴ For many people the city of Timbuktu²⁵ is but a figment of their imagination, perhaps a place where desert empires prospered. Indeed, in the imagination – and the dictionaries – of the Western world “Timbuctoo” is a metaphor for remoteness so extreme that it suggests a realm not just far off, but outlandish, imaginary and perhaps a myth. The phrase “from here to Timbuctoo” conveys an unthinkable scale.

Timbuktu evoked similar ideas in the mind of the European as early as the sixteenth century.²⁶ But the legendary, mysterious city²⁷ does exist and its

24 Stieber "The background and possible historical significance of a letter and manuscript of 1798 concerning Timbuktu" 1981 *History in Africa* 271.

25 For a brief description of everyday life in Timbuktu see McKissack & McKissack (n 9) 64-66.

26 Stieber (n 24) 271.

27 See the title of Dubois' book in n 20.

legacy as a centre for trade and scholarship in Africa is today making imprints throughout the world.²⁸

Historically, it served as a meeting place for travelling caravans arriving from across the Sahara desert to the north and river traffic coming from the south. The Niger river, along with other great African rivers such as the Zambezi, the Senegal and the Nile, is among the oldest and longest in the world. This river is to West Africa what the Nile is to Northeast Africa.²⁹

Al-Sadi has traced the origins of Timbuktu to around 1100 AD, when it was used as a seasonal camp by Tuareg nomads.³⁰ Timbuktu was the name of a Tuareg slave woman called "Buktu" who set up the first nomadic camp or well in the area.³¹ With an increase in trade this stop became increasingly important. Markets developed and more and more people settled there. Thus Timbuktu, literally meaning Buktu's well, was founded. In other words, Timbuktu was the stopover in the desert where Buktu would take care of you.³² It was incorporated within the Mali Empire in the late thirteenth century by the Mali sultan, Mansa Musa.³³

In the fourteenth century Timbuktu became an important focal point of the gold-salt trade. With the influx of North African merchants came the settlement of Muslim scholars. Trade and learning began to flourish. In 1468 the city was conquered by the Songhai ruler,³⁴ Sonni Ali. He was rather ill-disposed to the city's Islamic scholars. However, his successor and the first new ruler of the Askia dynasty, Muhammad Askia (who ruled from 1493 until 1528), employed the scholarly elite as moral and legal counsellors. During the Askia era (1493 to 1591) Timbuktu was at the height of its intellectual and commercial development.³⁵ Traders from all over West Africa and Morocco assembled there to buy gold in exchange for Saharan salt and North African cloth and horses. It is no wonder then that Timbuktu has been described as the

28 Gallagher "Timbuktu – learning at the heart of Africa" 2005 *Saturday Star* 1 October 6.

29 McKissack & McKissack (n 9) 81.

30 As translated by Hunwick (n 10) 29-30.

31 "Tim" or "tin" means "well" in the Tamasha language of the Tuareg people.

32 A further possible meaning of Timbuktu is provided by Al-Sadi, namely "one having a lump" or "outgrowth". He states that the original name of the city was Ti-n-boutou, meaning "she who has a protuberant navel". This meaning was probably due to the fact that the city was originally situated in a slight hollow.

33 Alternatively spelt Kankan Musa and Kankan Moussa. See McKissack & McKissack (n 9) at 56 and Davidson (n 2) at 50. He built the Great Mosque, the Djingereyber Mosque, in Timbuktu. Musa's mother's name was Kongo and since Musa is Arabic for Moses, he was sometimes called Kongo Musa or Moses, son of Kongo.

34 Also spelt Songhay; see McKissack & McKissack (n 9) at 84.

35 Gallagher (n 28). See also Latham (n 13) 49-51; Bovill (n 15) 132-141; Davidson (n 2) 56-58; and Davidson (n 13) 53-55. For a detailed history and description of the Askia era, see Hunwick (n 10) 109-185.

mysterious and captivating city “where salt was worth its weight in gold – and gold was spent on books”.³⁶

Salt was a highly valued commodity and it was heavily taxed. Traders were taxed one gold coin for every donkey-load of salt that came into the area, and two gold coins for every donkey-load that went out.³⁷ West Africa obtained most of its salt from Taghaza, a city in the Sahara desert. In his fascinating account of the life of Leo Africanus,³⁸ Amin Maalouf confirms that at a place called Taghaza, there was nothing except some mines where salt was extracted. The salt was kept until a caravan came to buy it in order to sell it in Timbuktu where it was in constant and great demand.³⁹ In his account of the Kingdom of Timbuktu Leo Africanus wrote the following:⁴⁰

The coine of Tombuto is of gold without any stampe or superscription: but in matters of smal value they vse certaine shels brought hither out of the kingdome of Persia, fower hundred of which shels are worth a ducate: and sixe pieces of their golden coine with two third parts weigh an ounce.⁴¹

36 Gates (n 1); see also McKissack & Mc Kissack (n 9) 24.

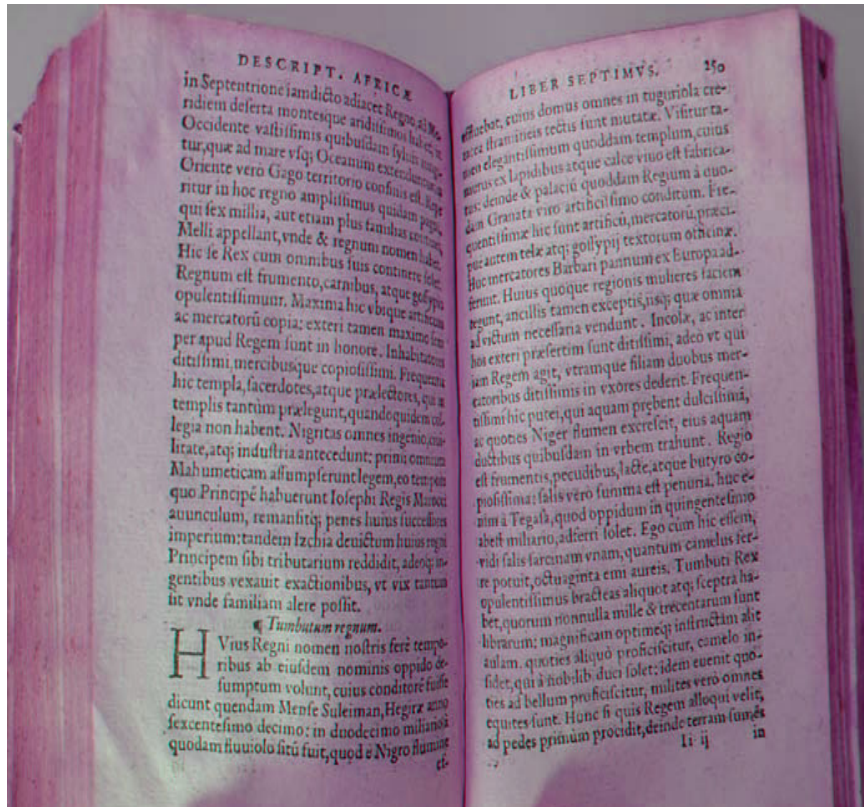
37 McKissack & McKissack (n 9) 23.

38 The first person who wrote extensively on West Africa in the early sixteenth century. He was born in Granada around 1485 and fled to Africa upon the issue of the *Edict of Expulsion* of Ferdinand and Isabella in 1492. Leo Africanus was in Timbuktu from 4 June 1505 until 23 May 1506. He died in Tunis in 1522. See *infra* the discussion under 5 “The libraries of Timbuktu”.

39 Maalouf *Leo the African* (1988) 164. The relevant chapter of the book is entitled “The Year of Timbuktu”.

40 This is the translation of the Latin text by Pory (n 23).

41 Pory (n 23) 825; see also Hunwick (n 10) 281-282. The Latin version, under a section entitled *Tumbutum regnum*, reads: *Horum moneta aurea est, nullis figuris insignita: in rebus autem minutoribus cochleis quibusdam utuntur, quae huc ex. Perfaru regione conuehi solent, harum quadringentae aureo aequivalent: aureorum autem sex cum duabus unius aurei tertis unciam una pendent: see Ioannis Leonis Africani De Totius Africae Descriptione, Libri IX (1556) 250. This book is housed in the Archives of the library of the University of South Africa. A later Latin version, published in Leyden, in 1632, is also housed in these Archives and is entitled *Africae Descriptione IX Lib Absoluta*. It is, however, quite probable that the original language of Africanus’ great work was Arabic, and that it was later translated into Latin: see Pory (n 23) “Introduction” lii.*



The 1556 Latin version of Africanus' *Descripta Africae*, clearly showing the section entitled "*Tumbutum Regnum*"

After its capture by Morocco in 1591 the city declined. The Moroccan army virtually destroyed the city, burned libraries, killed many scholars and banished others to Morocco. Some scholars fled to neighbouring Mauritania.⁴² In 1893 the French took the city. During the period of French colonisation, which ended in 1960, many of the manuscripts ended up in French museums and universities. For fear of losing these manuscripts during French rule, many were hidden under the sand and in trunks. They have thus only been emerging once again over the past three or four decades.

In 1960 Timbuktu became part of the newly independent Republic of Mali. Today Timbuktu is an administrative centre of Mali. Although small salt caravans still arrive in winter, there is no gold to offer in exchange and trans-Saharan commerce no longer exists.

42 This is the reason that many Timbuktu manuscripts are today located in Morocco and Mauritania.

3 A brief history of the European exploration of West Africa

It is perhaps surprising that Timbuktu, a place so close to Europe, remained a mystery to the Western world for so long. But, sooner or later, it had to be discovered by the West. Timbuktu remained the big prize for both the French and, especially, the British.⁴³ Indeed, the British had far surpassed all other European nations in discovering and exploring foreign lands and all that was left for her was a successful expedition through the African interior. As for the French, notwithstanding the capture and subsequent bondage into slavery (which had been verified by the French Consul in Mogador) of the shipwrecked American sailor called Robert Adams, the French Société Géographique offered the sum of ten thousand francs to the first French person to reach Timbuktu and survive.⁴⁴

In the seventeenth century a sea captain named Richard Jobson saw Timbuktu and described its houses as lined with gold.⁴⁵ In 1796 a Scottish doctor, Mungo Park, was sent by the African Society of England to find out whether the Niger river did in fact exist and where its course and mouth were.⁴⁶ He eventually reached the Niger describing the experience as follows:

I saw with infinite pleasure the great object of my mission; the long sought for majestic Niger, glittering to the morning sun, as broad as the Thames at Westminster, and flowing slowly to the [east]. I hastened to the brink, and having drank of the water, lifted up my fervent thanks in prayer, to the Great Ruler of all things, for having thus far crowned my endeavours with success.⁴⁷

Other explorers sent out by the African Society of England included James Gordon, Henry Salt, Walter Oudney, Dixon Denham, Hugh Clapperton and Captain Gordon Laing.⁴⁸ Having served unceremoniously in Sierra Leone, Laing decided to discover Timbuktu. Though sick, wounded, robbed of his gun and most other possessions, he continued believing that he was destined to reach Timbuktu.⁴⁹ On 13 August 1826, after crossing more than two and a half

43 Sattin *The Gates of Africa: Death, Discovery and the Search for Timbuktu* (2003).

44 *Idem* 318-319.

45 *Idem* 322.

46 Latham (n 13) 39-41. For an interesting and very recent account of Mungo Park's travels, see Fremantle *The Road to Timbuktu Down the Niger on the Trail of Mungo Park* (2005).

47 Latham (n 13) 39-40.

48 See Sattin (n 43) 322-326.

49 *Idem* 344.

thousand miles of desert from Tripoli, he finally reached the fabled and mysterious city.⁵⁰ He died shortly thereafter.

Also in the early nineteenth century, a Frenchman called Rene Caillie set out from Sierra Leone to Timbuktu. He had long been inspired by the work of the African Society and by the exploits of Mungo Park and others.⁵¹ He must also, no doubt, have been inspired and encouraged by the French Geographic Society's offer in 1824 of the handsome sum of ten thousand francs to the first person – one presumes they meant the first French person – to reach Timbuktu and survive.

Travelling alone with few possessions and disguised as a Muslim,⁵² Caillie succeeded in reaching the Niger and then sailing down to Timbuktu. He described his first sight of the city as follows:

On 20 April [1828], at sunset, I entered Timbuktu the mysterious and I could hardly control my joy. My idea of the city's grandeur and wealth did not correspond with the mass of mud houses, surrounded by arid plains of jaundiced white sand, which I found before my eyes.⁵³

Unimpressed by the city, Caillie is also reported to have said that Timbuktu, though one of the largest cities he had seen in Africa, possessed no resources other than its trade in salt and that the soil was totally unfit for cultivation.⁵⁴ However, upon visiting the Djingereyber Mosque, Caillie conceded that he was surprised to find three galleries, each supported by ten arcades, which were so well built that they must have been the work of a skilful architect.⁵⁵

Although Western and colonial impressions of a barbaric and uncivilised Africa gave rise to many unfortunate scholarly theories which were to persist until the 1970s, the past few decades of academic research have begun to drastically change these views. It is now well-known that there were cities along the Niger river as early as 300 AD. Timbuktu and Djenne, established almost a millennium later in approximately 1100 AD, figure prominently in the early

50 *Ibid.*

51 Sattin (n 43) 345.

52 See Latham (n 13) 41 and Sattin (n 43) 345. For fear of tarnishing the manuscripts, non-Muslims were not allowed to enter the city of Timbuktu.

53 Sattin (n 43) 346. The original French quotation appears in Sattin's work at 346: "C'est le 20 avril, au coucher du soleil que j'entrai a Tombouctou la mystérieuse, et j'avais peine à contenir ma joie. Je m'étais pourtant fait de la grandeur et de la richesse de la ville une idée à laquelle ne correspondait guère l'amas de maisons de terre, entouré d'arides plaines de sable d'un blanc jaunâtre, que j'avais sous les yeux."

54 See Latham's translation (n 13) 42-43.

55 *Ibid.* For a fascinating account of the thrilling travels and the extraordinary adventures of Rene Caillie, see generally Welch *The Unveiling of Timbuctoo* (1939).

history of Mali. The reason for this is that they were foremost centres of scholarship and commerce. Since the time of Mansa Musa – the late thirteenth century – Timbuktu had gained a great reputation in the Islamic world as a result of the writings of many of its scholars and philosophers. Among them were Ahmad Baba and Mohammed Kati.⁵⁶ The history of Djenne is closely linked to that of Timbuktu, since much of the merchandise that moved in and out of Timbuktu passed through Djenne.

4 The work of John Hunwick

Any discussion of the Timbuktu manuscripts and the rediscovery of this written source of African law would be incomplete without acknowledging the groundbreaking work of John Hunwick.⁵⁷ In the early 1960s Hunwick stumbled across an Arabic manuscript collection in the Nigerian town of Kano. He began microfilming the manuscripts, knowing that with time these delicate papers could deteriorate and eventually disappear.⁵⁸ Over the next forty years, while teaching in Accra, Cairo and London, Hunwick kept thinking about these manuscripts.

In the 1970s he was part of a group that established the first research library in Timbuktu. Since then, Hunwick has published extensively on the Arabic literature of Africa. In 1979 he published the *Handbook to the Arabic Writings of West Africa and the Sahara*, a work comprising of a list of authors and titles with an indication of the location of the manuscripts.⁵⁹ He began more serious work on the writings of Western Sudanic Africa in 1992 when, after a further visit to Timbuktu and due to the courtesy of the director of the Centre de Documentation et de Recherches Historiques Ahmad Baba (CEDRAB), the contents of the Centre were made accessible to him. What followed was the publication of Volume IV of *Arabic Literature of Africa*, entitled *The Writings of Western Sudanic Africa*.⁶⁰

56 Also known as Mahmoud Kati.

57 Professor Emeritus of History and Religion at Northwestern University in the United States of America. His best-known work is his translation of Al-Sadi's *Tarikh al-Sudan*, see (n 10).

58 Blackwell "Saving Africa's Islamic history" in *Northwestern Magazine* Fall 2004, online publication at <http://www.northwestern.edu/magazine/northwestern/fall2004/features/hunwick/Index.htm> (22 June 2006).

59 See Hunwick *Arabic Literature of Africa Vol IV: The Writings of Western Sudanic Africa* (2003) "Preface".

60 See n 59. The other volumes in the series are Vol 1 on *Eastern Sudanic Africa Down to c. 1900*; Vol II on *The Writings of Central Sudanic Africa*, Vol IIIA on *The Writings of the Muslim Peoples of Northeastern Africa*; Vol IIIB on *The Writings of the Muslim Peoples of Eastern Africa*, Vol V on *Arabic Writings of the Sudan in the 20th Century* and Vol VI on *The Writings of the Western Sahara*.

In 1999 he met Ismail Haidara, a descendant of the sixteenth century historian Mohammed Kati. Haidara invited Hunwick to see his personal library, which consisted of a collection of manuscripts that had been passed from generation to generation and were now stored in a trunk. Hunwick agreed to help preserve the manuscripts. The collection is presently housed in the Fondo Kati Library in Timbuktu. Hunwick's work was further encouraged by discussions with Abdul Kader Haidara, the curator of the Bibliotheque Commemorative Mama Haidara (Mama Haidara Memorial Library), as well as conversations with Mahmud Muhammad Dedebe, an expert in the scholarly traditions of Timbuktu.⁶¹

As a result, in 2001, the first research centre devoted entirely to the study of the Timbuktu manuscripts was launched at Northwestern University in the United States of America. The collection of manuscripts – which some historians regard as one of the most important manuscript finds of the twentieth century – includes treatises, poems, letters, legal documents and histories. Hunwick has expressed the hope that the research centre will help to erase what Henry Louis Gates Junior has referred to as the most terrible of all cruelties visited upon the African people: the denial of their fundamental equality of intellect.⁶² Hunwick has also added that, for too long, Africa has been stereotyped as the continent of song and dance, where knowledge was only transmitted orally.

The Timbuktu manuscripts demonstrate the strong and long intellectual tradition of Africa and point to the fact that Africa⁶³ possesses a rich legacy of written history, contrary to the false perception that Africa was or is an “oral continent”, and contrary to popular opinion that oral tradition alone preserved its heritage.⁶⁴ One must, of course, distinguish between North Africa and West Africa, on the one hand, and Africa south of the Sahara, on the other. As far as North Africa is concerned, the oldest existing written documents date back to approximately 3500 BC in Sumer.⁶⁵ As far as West Africa is concerned, the recent discovery of over 50 000 volumes of written text in libraries in Timbuktu serve as sufficient testimony of written sources dating from approximately 1100 AD.⁶⁶

61 See Hunwick (n 59) “Preface” xi.

62 Leopold “Rewriting the story of the ‘oral continent’” in *The Observer* 15 February 2001; see also http://www.northwestern.edu/univ-relations/observer/stories/2_15_01/islam.htm (20 June 2006).

63 With particular reference to North Africa and West Africa.

64 See “Saving the Timbuktu manuscripts” at http://www.safrika.info/what_happening/news.features/timbuktumanuscripts.htm (17 June 2006).

65 See Imbo (n 1) 47 and further Robb *Language and Thought in Early Greek Philosophy* (1983) 100.

66 The reference earlier to the rich legacy of written history in Africa is thus a reference to

5 The libraries of Timbuktu

The Niger Bend is to West Africa what the Nile Valley is to Egypt: in essence, a source of life. Historically, as stated earlier, the Niger also provided a highway of communication across the region and a connection between the desert lands of North Africa and the forests and savannah of the south. The human activity that has taken place in the region for thousands of years has left behind its evidence in a number of archeological sites.

However, it is the other legacy that has developed there over the past seven hundred years that is the subject of this paper, namely the legacy of a culture of literacy symbolised by the extraordinary wealth of private collections of predominantly Arabic manuscripts. Not only were books brought into the city of Timbuktu, but local scholars also wrote their own works there. By the middle of the fifteenth century Timbuktu had become a city not only of scholarship and learning, but also of commerce. Scholars who settled there brought their libraries with them and, in addition, purchased manuscripts imported from North Africa.⁶⁷

Leo Africanus⁶⁸ was the first person to write an eyewitness account of the Songhay Empire, probably in Arabic,⁶⁹ and his work was later translated into many other languages.

Like thousands of other Muslims, Africanus crossed the Mediterranean and went to Fez with his parents. He then began travelling for the first time to western and central Sudan in 1512 and visited the cities of Timbuktu, Gao and Djenne. In 1518, bound for Constantinople, he was captured off the coast of Tunisia by Christians. Impressed with his learning, they presented the young Muslim to Pope Leo X. The Pope promptly freed him, had him converted to Christianity and baptised, and gave him the name Giovanni Leoni. Since he returned to Africa later in his life he became known as Leo Africanus. However, Africanus further explained his various names by saying that in the Maghrib (referring to North Africa) he was never referred to by either his African or Latin names, but was there known as Hassan, son of Muhammad al-Wazzan. When

the legacy of North and West Africa. The author does not either affirm or deny that Africa south of the Sahara possessed a richer oral tradition than other parts of the continent and it is not the purpose of this article to embark on such enquiry.

67 For example, from *Barbarie*: see n 78 *infra*, and also the Introduction *supra*, esp n 7.

68 His original Arabic name was Al-Hassan ibn Muhammad al-Wazzan al-Fasi.

69 Cf n 41.

he was in Granada, the suffix “al-Gharnati” was added to his name and when in Fez the suffix “al-Fassi” was added.⁷⁰

Leo was easily adaptable, and he stated that when he heard Africa ill-spoken of he would affirm himself to be from Granada, and when he perceived the people of Granada to be discommended he would profess himself to be an African. He was prepared to be African or Granadan, Moslem or Nazarene, and merely adjusted to the circumstances of the situation. This would have made him an undemanding companion.⁷¹

Describing his capture by the Christians, Africanus stated that he was presented as a gift to the Pope on Sunday 14 February 1519 for the feast of St Valentine.⁷² He vividly described his apprehensions as follows:

I had been forewarned of this the previous evening, and I had stayed with my back leaning against the wall of my cell until dawn, unable to sleep, listening to the ordinary noises of the city, the laughter of a watchman, some object falling into the Tiber, the cries of a newborn baby disproportionate in the dark silence.⁷³

In Rome he often suffered from insomnia and he explained that what he missed most was neither the absence of freedom nor the absence of a woman, but the absence of the muezzin. He said that he had never previously lived like this, week after week, in a city where the call to prayer “did not rise up, punctuating time, filling space, reassuring men and walls”.⁷⁴

The Pope was fascinated with Africanus’ stories about his travels south of the Sahara, so much so that he paid him to learn Latin so that Africanus could write an account of his travels in that language. The Latin version of Africanus’ *magnum opus* was published in 1556.⁷⁵ In 1600 it was translated into English by John Pory under the title *The History and Description of Africa and of the Notable Things Therein Contained*.⁷⁶ This work represents one of the earliest accounts of West Africa and the Sudan available in English.⁷⁷ In respect of the sale of books, Africanus wrote:

70 Maalouf (n 39) 42; see also Pory (n 23) “Introduction” ii.

71 Pory (n 23) “Introduction” li.

72 See Maalouf (n 39) 289 where the author narrates the life of Africanus from 3 January 1519 to 22 December 1519.

73 Pory (n 23) “Introduction” li.

74 *Ibid*; see also “Introduction” xli – xlviii.

75 See n 41 *supra*.

76 An edited English version, containing an Introduction and Notes, was done by Dr Robert Brown in the same year.

77 McKissack & McKissack (n 9) 101.

Here are great store of doctors, judges, priests, and other learned men, that are bountifully maintained at the king's cost and charges. And hither are brought divers manuscripts or written bookes out of Barbarie, which are sold for more money than any other merchandize.⁷⁸

He added that books were not only imported to Timbuktu but that they were also copied there. Indeed, the sophisticated book-copying industry in Timbuktu enabled its scholars to build up their own libraries.⁷⁹ Copiers were paid the princely sum of 24 grams of gold per copy, and this is an indication of the importance placed on the value of their work.⁸⁰ By the fifteenth century the Muslim scholars of Timbuktu were writing their own books in Arabic for purposes of teaching while the sixteenth century saw the emergence of biographical dictionaries.

During the Askia era (1493-1591) the scholars were well supported financially by the rulers of the day.⁸¹ One of these rulers, Askia Dawud,⁸² began the development of public libraries. However, the principal source of Timbuktu scholarship lay in the private libraries of individual scholars. Today the city has between sixty and eighty private libraries, including the Mama Haidara Memorial Library, the Fondo Kati Family Library, the Al-Wangari Library, the Sheik Zayni Baye Library and the Mohamed Tahar Library.⁸³ Smaller collections include the Al-Kounti and the Boularaf collections.

The largest of these collections is the Mama Haidara Memorial Library. The contents of several other private collections have been acquired by the Ahmed Baba Institute.⁸⁴ This is a public library that today contains around 20 000 manuscripts.⁸⁵ At present urgent efforts are being made to preserve this literary heritage. This is an important mission since poverty is leading to the sale of

78 See Pory (n 23) 825; see also Hunwick (n 10) 281. The Latin version reads: *Magna hic est iudicum, doctorum, sacerdotum, atque virorum doctissimorum copia, qui liberalissimus Regiis aluntur stipendiis. Infiniti hic libri manuscripti ex Barbaria adferuntur, e quibus multo plures pecuniae, quam ex reliquis omnibus mercibus colliguntur.* See Africanus (n 38) 250. See also the 1632 Latin edition referred to in n 41 at 644-645.

79 See "The Timbuktu libraries" at <http://www.sum.uio.no/research/mali/timbuktu/privates/description.html> (20 July 2006).

80 For further information regarding the copying industry, cf Hunwick "West African Arabic manuscript colophons II: A sixteenth century copy of the *Muhkam* of Ibn Sida" in 2002 *Sudanic Africa* 130-152; see also Gallagher (n 28).

81 For a detailed chronological history of the reign of all the rulers in the Askia dynasty, see Hunwick (n 10) 109-185.

82 He ruled from 1549 to 1583. For further details of his reign, see Hunwick (n 10) 144-159.

83 See <http://www.sum.uio.no/research/mali/timbuktu/libraries.html> (20 July 2006).

84 Institut de Hautes Etudes et de Recherches Islamiques Ahmed Baba (IHERI-AB).

85 Sixteen of these manuscripts were exhibited at the Standard Bank Gallery in Johannesburg in October 2005.

many items and the harsh North African climate and insects are taking their toll on the fragile paper.⁸⁶

South Africa, too, has recently thrown its weight behind these efforts. In 2005 a consortium of South African businessmen decided to finance the building of a new library and archive which will house between 200 000 and 300 000 ancient manuscripts which are currently being housed in some twenty four private libraries in and around Timbuktu. Already in 2001 President Mbeki, after a visit to Mali, offered his assistance, and in 2003 the South African government signed an agreement with the Malian government to assist in the conservation and preservation of these manuscripts as well as the rebuilding of the Ahmed Baba Institute. This building is to be erected opposite the historic Sankore Mosque, close to Timbuktu's old quarter, which is a Unesco World Heritage Site.⁸⁷

6 The Timbuktu manuscripts

In the late 1960s the United Nations Educational, Scientific and Cultural Organisation held a conference in Timbuktu where a wide range of manuscripts had been discovered.⁸⁸ To date, some 700 000 manuscripts have been discovered there, with the oldest one dating back to 1204. These manuscripts, written in Arabic, cover a wide variety of subjects including mathematics, astronomy, medicine, literature, philosophy, law and linguistics and music. They take the form of treatises, letters, poems and legal documents. The manuscripts on law include business laws of the times and are a living testimony of the highly advanced and refined civilisation in Sub-Saharan Africa more than 800 years ago.

The manuscripts are all on paper and none are bound together. The loose leaves are kept together in covers of wood or leather. A number of the manuscripts contain glosses. The durable ink in which they were written was extracted from vegetable dyes, mainly from the Arabic gum tree. Horns and hooves of animals were burned and mixed with the ink to make the colours more brilliant. Some of the mixing methods proved quite potent and its effects

86 See Leopold (n 62) 2.

87 See the following recent newspaper articles: Tromp "Reclaiming our continent's intellectual heritage" *The Star* 7 October 2005 at 15; Morris "Treasures from here to Timbuktu" *The Star* 9 May 2005 at 9; and "Saving Africa's literary heritage" *Cape Argus* 28 April 2005 at 20. See also n 28.

88 Other collections of written materials in Africa have also been discovered in Zanzibar, Nigeria and Mauritania.

are evident on a number of manuscripts. Unfortunately the acidic compound used have burnt holes in a number of manuscripts.⁸⁹

The manuscripts are written in various forms of Arabic script.⁹⁰ A number of these manuscripts are available online under the title *Ancient Manuscripts from the Desert Libraries of Timbuktu*⁹¹ and *Islamic Manuscripts from Mali*⁹² by the African and Middle Eastern Division of the Library of Congress in the United States of America. The *Islamic Manuscripts from Mali* website features twenty two manuscripts from the Mamma Haidara Library and the Sheik Zayni Baye Library in Timbuktu. As indicated, these manuscripts cover various subjects. Digital images of the manuscripts have been donated by Abdel Kader Haidara, the owner and curator of the library. For reference purposes each manuscript on this website has been allocated a digital identification. The precise date or year in which the manuscript was written is not provided. However, it is possible to gather with a reasonable degree of accuracy when it was written with reference to the dates of birth and death of the various authors.

One of the manuscripts donated by Haidara contains the advice of a North African Islamic scholar, Muhammad ibn Abd al-Karim al-Maghili to the ruler of the Askia dynasty. It was stated earlier that the first new ruler of the Askia dynasty, Muhammad Askia (who ruled from 1493 until 1528), employed a scholarly elite, well supported financially by the rulers of the day,⁹³ as moral and legal counsellors.⁹⁴

Al-Maghili may be regarded as the leading figure of the moral and legal counsellors of Muhammad Askia. In 1496 Askia left Songhay on pilgrimage to Mecca and returned two years later. It was then that he met al-Maghili. He advised Askia on many questions relating to faith, law, politics and philosophy. Al-Maghili acted as advisor to Askia until the former's death around 1504.⁹⁵ Al-Maghili's replies have been recorded in English⁹⁶ by Hunwick in his work *Shari'a in Songhay: The Replies of al-Maghili to the Questions of Askia al-hajj*

89 See newspaper articles referred to in n 87.

90 For exhibits of the different forms of Arabic script see <http://international.loc.gov/intldl/malihhtml/islam.html> (24 July 2006).

91 See <http://www.loc.gov/exhibits/mali/> (24 July 2006).

92 See <http://international.loc.gov/intldl/malihhtml/malihhome.html> (24 July 2006).

93 See *supra* the discussion under 5 "The libraries of Timbuktu", in particular at n 81.

94 See *supra* the discussion under 2 "Brief history of Timbuktu", in particular at n 34 and n 35.

95 See Blum & Fisher "Love for Three Oranges, or, the Askiya's Dilemma: The Askiya, Al-Maghili and Timbuktu, c. 1500 AD" 1993 *Journal of African History* 66.

96 Dated 1985.

Muhammad. Al-Maghili thus moulded the Songhay ruler's policies and exercised a considerable influence on state affairs.⁹⁷

What follows are brief summaries of some of the manuscripts/books – including some of al-Maghili's work – presented online on the following topics: good governance, justice, ethics and law. The purpose of these summaries is simply to give the reader some idea of the content of the manuscripts.⁹⁸

6 1 Good governance

(i) *As'ilat Askiyah wa-Ajwibat al-Maghili*⁹⁹ (*Maghili's Tract on Politics*)

The author of this manuscript, alternatively entitled *Law and Politics in the Songhai Empire*, is al-Maghili. It contains the answers to seven questions posed to al-Maghili by the Songhai Emperor. In discussing political and economic issues al-Maghili advises the Emperor that he is obliged to apply Islamic law strictly in these spheres of life.

(ii) *Wajibat al-Umara'* (*The Obligation of Princes*)

Al-Maghili is the author also of this manuscript. He states that authority is founded upon wise management in government. Every ruler must do all in his power to ensure the welfare of his subjects. Those who give the ruler counsel ought to be men of wisdom, while those who collect and spend taxes and those who keep financial accounts ought to be trustworthy men. Al-Maghili adds that the prince should vigilantly keep an eye on his governors in all that they do. If any of them is the object of repeated complaints, albeit the evidence is not clear, he should be sacked and substituted.¹⁰⁰

97 Blum & Fisher (n 3) 67; see further Abd-Allah Batran "A contribution to the biography of Shaikh Muhammad ibn 'Abd-al-Karim ibn Muhammad ('Umar-a-Mar) Al-Maghili, Al-Tilimsani" 1973 *Journal of African History* 381-394.

98 The author therefore fully acknowledges the paucity of detail supplied. The assistance of Mr Shaheed Mathee (of the Department of Islamic Studies at the University of Cape Town), who is involved in the translation of some of these manuscripts, is also acknowledged.

99 MS from Mamma Haidara Memorial Library (Digital ID: aftmh tam014).

100 The original manuscript in Arabic could not be located by the author of this article. Thus no reference number or digital ID is provided. Rather, the English translation is to be found in "Muslim ideals of kingship" in Latham (n 13) 25. Latham, in turn, borrowed the translation from a certain Baldwin. It is believed that al-Maghili wrote this around 1493 as advice for the Amir (Prince) of Kano.

- (iii) *Usul al-Adl li-Wullat al-Umur wa-Ahl al-Fadl wa al-Salatin*¹⁰¹ (*The Administration of Justice for Governors, Princes and Meritorious Rulers*)

The author of this manuscript is Uthman ibn Muhammad ibn Uthman ibn Fodyo and the alternative title is *Advice to Governors*. Ibn Fodyo sets out the authority of governors and rulers as well as their limitations under Islamic law. He also discusses the importance of understanding the responsibility of power and its proper use. Furthermore, great emphasis is placed on the obligation of the ruler to ensure social justice as well the protection of property.

Ibn Fodyo was born in 1754 in Gobir and died in Sokoto in Nigeria in 1817. This manuscript serves to show that not all of the Timbuktu manuscripts were written there, but that Timbuktu served as a centre for scholarship and that its scholarly impact was felt all around it.

- (iv) *Jawab Ahmad al-Bakayi ala Risalat Amir al-Mu'minin Ahmad al-Masini*¹⁰² (*The Response of Ahmad al-Bakayi to the Letter of Amir Ahmad, Ruler of Massinah*)

The author of this manuscript is Ahmad al-Bakayi ibn Sayyid Muhammad al-Mukhtar al-Kunti and the alternative title is *Answer to a Royal Request*. This manuscript is a reply to the ruler of Massinah, Amir Ahmad, who ordered the arrest of Heinrich Bart, a German traveller suspected of spying for the British. Al-Kunti declares the arrest to be illegal in terms of Islamic law and states that a non-Muslim entering the domain of Muslims in peace is protected and may not be arrested, have his property confiscated or otherwise be hindered.

In the eighteenth century the Kunta people, who were Western Sahara Berbers in origin, moved towards the north of Timbuktu where they became engaged in the salt trade. Here they came under the influence of Al-Maghili and consequently produced a number of notable scholars. Ahmad al-Bakayi al-Kunti, who lived from 1803-1856, was the son of al-Mukhtar al-Kunti (also known as Sidi Mukhtar).¹⁰³ He was one of the last principal spokesmen in pre-colonial Western Sudan for an accommodationist stance – as is clearly evident from the above manuscript – towards the threatening Christian European presence.

101 MS from Mamma Haidara Memorial Library (Digital ID: aftmh tam015).

102 MS from Mamma Haidara Memorial Library (Digital ID: aftmh tam019).

103 See http://en.wikipedia.org/wiki/Ahmad_al-Bakkai_al-Kunti (3 November 2006) and <http://phpbb-host.com/phpbb.viewtopic.php?p=4365&mforum=thenile&> (3 November 2006).

6 2 Justice

Al-Maghili also wrote on the concept of justice. Although the following extract¹⁰⁴ is not from one of the recently discovered and translated manuscripts, it is an earlier translation of one of these manuscripts regarding the treatment of the concept of justice. Al-Maghili writes:

Justice requires that the judge give each of the parties his turn in speaking. He will accept no witness who is not upright and dependable or who is suspected of bias against the defendant. If the right judgment is difficult, he will, after persevering, investigation, diplomacy and close scrutiny, select from the witnesses the most truthful in character. For it is on the evidence that matters turn and most witnesses are deluded by error and steeped in ignorance. The judge will certainly inform the defendant of the reasons of the plaintiff and will hold him innocent until he is sure that the accuser is not unjust. When the matter is concluded he will give judgement after suitable consultation. No judgement is lawful unless it accords with the recognised principles of his legal authority.¹⁰⁵

6 3 Ethics

In a manuscript entitled *al-Fawa'id wa al Qala'id*¹⁰⁶ (*Useful Stories and Verses*), and under the alternative title of *Ethical Behaviour*, Abu Ali al-Hasan ibn Ali al-Ahwazi states that the ethical conduct of persons in business and government is of the utmost importance. The book contains a number of illustrations and stories exemplifying ethical and righteous conduct. The author takes particular care to impress upon the reader the fundamental importance of ethical behaviour while occupying an official position.

6 4 Law

Following are summaries of manuscripts in the field of law:

104 Once again, the original manuscript has not been located by the author of this article. Information was obtained from Latham (n 100) 25.

105 *Ibid.*

106 MS from Mamma Haidara Memorial Library. No digital ID could be located for this manuscript.

- (i) *Sharh 'ala Amthilat al-Farai'id*¹⁰⁷ (*Commentary on the Law of Inheritance*)

The author of this manuscript is al-Qadi Muhammad ibn al-Imam Uthman al-Wakari Al-Tumbukti. He states that the Islamic law of inheritance is a highly regulated system in which beneficiaries receive legacies depending on their degree of relationship to the deceased. He further elaborates on that system and explains it *Qur'anic* basis with specific reference to verses 11 and 12 of chapter 4 of the *Qur'an*.

- (ii) *Sullam al-Atfal fi Buyu al-Ajal*¹⁰⁸ (*The Protection of Individuals in Commercial Transactions*)

The author of this manuscript is Ahmad ibn Bud ibn Muhammad al-Fulani. The alternative title of the work is *Laws of Commerce in Verse*. In it the author delineates the rights and obligations of the parties to commercial exchanges and contracts, particularly contracts of sale. There are, furthermore, discussions on the protection of individuals who make loans. An interesting aspect of this work is that verse is used in order to aid the reader in memorising the text.¹⁰⁹

The manuscript includes a discussion on issues such as the reduction of the purchase price, selling on credit and reimbursement for expenses incurred by the seller.¹¹⁰ In respect of the reduction of the purchase price, it had been agreed that a particular slave would be sold for a price of four horses. The purchaser had not seen the slave and could therefore not verify the description he was given. Upon seeing the slave, the purchaser argued that he did not fit the earlier description and was consequently only prepared to buy the slave for the price of three horses. The reduced price was agreed upon.

In respect of selling on credit, the seller argued that it had become customary in these parts – this transaction took place in Timbuktu – that items were rarely sold for cash. The custom had gained the force and status of a rule of law. In respect of the reimbursement for expenses incurred by the seller, since the buyer had only accepted delivery of the slave one month after the conclusion of

107 MS from Mamma Haidara Memorial Library (Digital ID: aftmh tam003).

108 MS from Mamma Haidara Memorial Library (Digital ID: aftmh tam004).

109 The poem was one of the forms which the manuscripts took.

110 The assistance of Prof Y Dadoo, of the Department of Arabic Studies at Unisa, who is working in conjunction with the Department of Islamic Studies at the University of Cape Town in the translation of a number of selected manuscripts, is acknowledged in respect of this particular document.

the contract, it was argued that the seller ought to be reimbursed for expenses incurred relating to the feeding and maintenance of the slave.

(iii) *Qasidah*¹¹¹ (*Poem*)

The author of this manuscript, written in the form of a poem, is Sayyid al-Mukhtar ibn Ahmad ibn Abi Bakr al-Kunti al-Kabir. He was the father of Ahmad al-Bakayi.¹¹² In it he instructs students of Islamic law on the rights of orphans and married women. Verse was used in order to aid student memory.

(iv) *Miraj al-Suud nayl Majlub al-Sudan*¹¹³ (*Ahmad Baba Answers a Moroccan's Questions on Slavery*)

The alternative title of the work is *The Law of Slavery*. The author of the manuscript is Ahmad Baba ibn Ahmad ibn Umar Muhammad Aqit al-Tumbukti. He discusses slavery as it existed in West Africa during the seventeenth century. The exegesis is based on Islamic law and the author makes it clear that the fundamental and original nature of human beings is that they are free. However, they may be enslaved only under very specific conditions.

7 Concluding remarks

In his overview of the literature of Western Sudanic Africa, John Hunwick highlights the prominence of the strong literary and manuscript tradition evident there and states that one of the key centres of Islamic scholarship, from a millennium ago through to the twentieth century, has been Timbuktu.¹¹⁴

The Timbuktu manuscripts demonstrate the strong and long intellectual tradition of West Africa and point to the fact that West Africa possesses a rich legacy of written history – including, of course, written legal history – contrary to the false perception that Africa was or is an “oral” continent and that oral tradition alone preserved its heritage.

Leo Africanus is a fascinating figure who requires deeper study as regards his travels through North Africa and especially his writings on Timbuktu. His remarks about the copying industry are also of great importance, and much research remains to be done on this important aspect of the Timbuktu documents.

111 MS from Mamma Haidara Memorial Library. No digital ID could be located for this manuscript.

112 See *supra* 6 (iv) “Good governance”.

113 MS from Mamma Haidara Memorial Library (Digital ID: aftmh tam006).

114 Hunwick (n 59) 1.

With reference to the South African government's agreement with the Government of Mali, President Mbeki said that the renaissance of Africa has to begin with an understanding of our past. He added that we must contest the colonial denial of our history and initiate our own conversations and dialogues about our past. One cannot but conclude in the words of Tromp:¹¹⁵ "For Africans to attain liberation from the idea that no civilisation existed on the continent until the arrival of colonisers, the ancient city need to be reborn."