A HISTORY OF ISLAMIC LAW IN SPAIN: AN OVERVIEW

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The historians of Islamic Law have generally noted that the schools of law in Islam developed initially as regional traditions. These traditions usually comprised the practices of three generations of scholars, going back to one or more Companions of the Prophet. Al-Khudari traces seven such regional traditions in Islamic law—in Madinah, Makkah, Kufa, Basra, Syria, Egypt and Yemen.¹ We shall mention only Madinah and Syria as they are directly relevant to our discussion.

Madinah: The Prophet’s wife ‘A’ishah (d. H 57),² ‘Abd Allah ibn ‘Umar (d. 73), and Abū Hurayrah (d. 58) formed the nucleus of the Madinan tradition. They were joined by the following Successors: Sa’īd ibn al-Musayyib (d. 94), ‘Urwh ibn al-Zubayr (d. 94), Abū Bakr ibn ‘Abd al-Rahmān (d. 94), ‘Alī ibn Ḥusayn (d. 94), ‘Ubayd Allāh ibn ‘Abd Allāh ibn Mas‘ūd (d. 98), Sulaymān ibn Yasār (d. 107). Al-Qāsim ibn Muḥammad ibn Abī Bakr (d. 106), Nāfi‘ (d. 117), Muḥammad ibn Muslim ibn Shīhāb al-Zuhrī (d. 124), Yaḥyā ibn Sa‘īd (d. 143), and Rabī‘ah ibn ‘Abd al-Rahmān (d. 136).

Mālik ibn Anas grew up in Madinah and was nourished upon this tradition. This tradition later developed into the Mālikī school of law. We will have occasion to say more about this school in the subsequent pages.

Syria: The legal tradition developed in Syria with the three jurists sent there by ‘Umar ibn al-Khaṭṭāb. They were ‘Abd al-Rahmān ibn Ghanām al-Ash‘ārī (d. 78), Abū Ġdrīs al-Khūlānī (d. 80), Qabīṣah ibn Dhuwayb (d. 86). This tradition was continued by Makhūl ibn Abī Muslim (d. 113), Rajā’ ibn Ḥaywā (d. 112), and ‘Umar ibn ‘Abd al-‘Azīz (d. 101). Awdā‘ī school of law, prevalent in Spain before being replaced by the Mālikī school, developed in this tradition.

The development of Islamic law in Spain, too, followed the same regional pattern. The manāqib and fada’il literature claims that a number of Companions of the Prophet (peace be on him) and the Successors came...
Manuela Marin has recently studied this literature. About twenty Companions and Successors are claimed to have arrived in Spain. However, most of these stories are no more than legends.  

There is, however, no doubt that the legal tradition in Spain was much influenced by the legal traditions of Syria and Madinah and later developed itself as a coeval regional tradition. As shall be seen, the Awzá’i school prevailed during the early Umayyad Spain, but later the Mālikī school remained dominant throughout the history of Muslim Spain, with sporadic appearance of the Zāhirī and Shāfi‘ī schools.

The history of the development of Islamic Law in Spain is very rich. Even a simple list of the names of jurists and their works should be sufficient for demonstrating this fact. Nevertheless, to our knowledge, a comprehensive history of Islamic law in Spain is yet to be written.

Most of the recent works have concentrated only on the early period of the history of Mālikī law in Spain. Studies by scholars like Lopez-Ortiz, and Brunschvig are confined to the issues relating to the introduction of Mālikī law in Spain. L. Provençal, though it is not his main subject, covers this history only up to the Umayyads of Spain. Palencia and Hajawi cover the entire period of Muslim Spain, but the former treats Islamic law as one of the manifestations of Islamic culture in Spain and in Hajawi’s treatment Spain forms an indistinct part of the Maghrib in his general survey of Muslim legal thought. The present study aims at presenting only an overview of the major developments in this history. A list of prominent Mālikī jurists of Spain of each century is given at the end as appendix.

The following periodisation has been adopted only for the sake of convenience:

The First period: (93–237):  
Introduction of the Mālikī school in Spain.

The Second period: (238–401):  
The formative Period.

The Third period: (404–626):  
The Consolidation.

The Fourth period: (627–897):  
Interaction with other schools of law and thought.
THE FIRST PERIOD (93–237)

Introduction of the Mālikī School of Law in Spain

After the Muslim conquest in 93, Spain came to be ruled by the Umayyads from Damascus (Syria). The army chiefs who came with the Umayyad governors mostly belonged to Syria and brought their Syrian traditions with them. As mentioned earlier, the school of Awzā'ī (d. 158) was prevalent in Syria at that time and the Umayyads in Damascus had a high regard for this school. Thus the Awzā'ī school came to Spain with the Syrian officials. Sa'sa'ah ibn Sallām al-Andalusi (d. 192), a disciple of Awzā'ī, was appointed the chief mufīt and khatib in Córdoba. He served in these positions for more than forty years. Al-Dhahabi (d. 750) has noted that the Awzā'ī school continued to flourish in Spain until 230 when it was completely replaced by the Mālikī school.

Besides Awzā'ī, other schools of law also penetrated into Spain. Among them the influence of the Shafi‘ī School was considerable. Maqdisi (d. 375) claims that the Ḥanafi school flourished in Spain until the second half of the third century hijrah, but other scholars have not accepted his claim. L. Provençal insists that the Hanafi school was never introduced in the Iberian Peninsula. According to Qādi ʿIyāḍ (d. 544), individual Ḥanafi jurists might have come to Spain as travellers or emissaries from other areas, but the school itself never flourished.

As we shall see later, the Shi‘ī/Ismā‘īlī/Fāṭimī teachings also entered Spain in the subsequent periods but preventive measures kept the dissemination of such teachings limited only to a few areas.

The Awzā'ī school withstood challenges from other schools and remained dominant during the first and a greater part of the second century. The situation, however, changed when the caliphal capital shifted from Damascus to Baghdad after the assumption of the Caliphate by the ‘Abbasids. The political scene changed in Spain also. The Umayyad prince, ʿAbd al-Raḥmān al-Dākhil escaped from Syria to Spain and established an independent Umayyad emirate in Córdoba. During the course of these political changes, and the struggle for power between various forces in Córdoba, Makkān scholars who, as we shall see shortly, had already got a foothold in Spain, triumphed over the others and Mālikī school replaced the Awzā'ī school as the official school of the new regime.

To understand how, when and why it happened, let us go back to the origins of the Mālikī school. The family of Mālik ibn Anas (d. 179), the founder of this school, had migrated from Yemen to Madina three gener-
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Malik’s studies under teachers like Ibn Shihāb al-Zuhri (d. 124), an expert on hadith, and Rabī’ah ibn ‘Abd al-Rahmān (d. 136), known as Rabī’ah al-Ra’y, because of his adherence to extra-traditional methods of legal reasoning, led him to integrate hadith and ra’y into the basic principles of the Mālikī school. The two basic principles of school, ‘amal ahl al-Madinah (the practice of the people of Madinah) and Maṣlahah (common good) could be seen as legal developments of hadith and ra’y respectively.

Briefly speaking, Malik stressed that the tradition and practice of Madinah was the most reliable Sunnah (and Ḥadīth). It was at Madinah where the Prophetic tradition grew, his Companions taught and practised it. The practice on which a consensus had developed among the two generations of Muslims, was undoubtedly authentic. He recorded this practice in his work, al-Muwatta’.

The second principle—maṣlahah—explained that the underlying purpose in the Quranic laws, the Sunnah of the Prophet (peace be on him), the practice of Madinah, the precedents and consensus of the Companions of the Prophet was the maṣlahah, common good or welfare of mankind. Therefore, whenever clear and specific guidance was not available in the Qur’ān, the Sunnah and the practice of the Companions, this object should serve as the guiding principle of reasoning and justification.

Malik’s teachings were spread by the scholars who came to Madinah from all over the world in large numbers, particularly during the Hajj season. Malik’s knowledge of the Sunnah, his personal character, and his elegant way of life impressed most of the visitors and they wrote manāqib of Madinah as well as of Malik when they reached home. It was through such travellers that the Mālikī tradition reached Spain in the second century Hijrah, during Malik’s lifetime.15 Ibn Khaldūn16 identifies four regions where the Mālikī school was developed through this process. Qādi Ismā‘il in Iraq, Ibn al-Qāsim (d. 191) and Ashhab (d. 204) in Egypt, Ibn Ḥabīb (d. 238) in Spain, and Asad ibn al-Furāt (d. 213) in North Africa were its main proponents. Soon Cordoba and Qayrawan became two influential centres of the Mālikī school. Cordoba, however, held the dominant position during the period of the Umayyad caliphate in Spain.

As to who introduced the Mālikī school in Spain, accounts of other scholars differ with Ibn Khaldūn’s. Ibn al-Qutiyayh17 (d. 367) and Ibn Farhūn18 (d. 743), name Malik’s disciple Ghāzi ibn Qays (d. 199). According to al-Maqqari19 (d. 1041), Humaydī20 (d. 489), Provencal,21 al-Jīdi,22 and Abū Zuhrā,23 it was Ziyād ibn ‘Abd al-Rahmān al-Shabatūn (d. 193); while al-Ḥajwī24 and Palencia25 credit Yaḥyā al-Laythī (d. 234) with the introduction.
To appreciate this disagreement among the scholars, it may be noted that the Mālikī school could be seen introduced into Spain through three different channels. The first channel is that of the introduction of al-Muwatta'. Shabaṭūn and Ghāzī ibn Qays brought it along from Madinah and taught their own, probably variant, versions. Shabaṭūn's version was known as Simā' Ziyād which subsequently prevailed over the other. The second channel transmitted al-Mudawwanaḥ, as compiled by Ibn Habīb (d. 238), in his own version al-Wādiḥah. The third channel was the official recognition of the Mālikī school by the Cordoban Caliphate. Yahyā al-Laythī, who was appointed Chief qaḍī in Cordoba by Hishām I (172–180), also enjoyed the prerogative of appointing qaḍīs in Spain. He consistently chose them only from among the Mālikīs. Hence differing perspectives of the issue of introduction may lead to difference of opinion.

Another point on which scholars differ widely is the explanation for the sudden rise and dominance of the Mālikī school in Spain. Ibn Ḥazm (d. 454) attributed the spread of the Mālikī school to the high regard that caliph al-Hishām I (172–180) had for the Mālikī jurist Yahyā al-Laythī. Ibn Khaldūn's explanation was that the Muslim culture in Spain was simple and primitive, the same as in Madinah. Hence Spain proved to be a congenial ground for the Mālikī school to prosper. Secondly, according to him, scholars from Spain frequently travelled to Makkah and Madinah for Ḥajj and thus, quite naturally, were influenced by the school. Ignaz Goldziher's explanations are in conformity with Ibn Khaldūn's. Abī Zuhra has refuted these explanations. He has also questioned Ibn Khaldūn's characterisation of culture in Spain and Madinah as primitive. According to him, it was, in fact, the official patronage by the Umayyad Caliphs that led to the establishment of the school in Spain.

Lopez Ortiz and H. Monés have argued that the Umayyad caliphs in Spain adopted the Mālikī school to seek religious legitimacy for themselves against their rivals in Spain as well as the 'Abbāsid caliphs in Baghdad. We have argued elsewhere that it was not the question of religious legitimacy but that of the support of the group of fuqahā' who had become a strong political group by that time. As observed by 'Abd al-Majīd Turki in a recent study, the cult of Mālik, through the production of the manāqib literature, had created an environment in the Muslim west where al-faqīh became a prestigious title.

Levi Provinçal and Roger Idris, while analysing the political developments under Hishām I (172–180) and al-Ḥakam I (190–207), have observed that the fuqahā' had developed into an aristocracy during this period, holding influential positions and enjoying financial prosperity. 'Abd al-Rahmān al-Dākhil (138–172) had established the Umayyad emirate in
Spain with the support of Syrian soldiers. His successor Hishām I felt threatened by these soldiers, and therefore sought the support of religious scholars to counter the influence of soldiers who were mostly adherents of the Awzā'ī school. It is also reported that religious leaders told Hishām that Malik admired his simplicity and piety and favoured the Umayyads against the 'Abbāsids. Consequently, the Mālikī fuqahā' and Hishām I became political allies. Monès has studied this question in the context of a struggle for throne between Hishām I and Sulaymān. Sulaymān enjoyed the support of the Syrian soldiers. Hishām I, therefore, sought the support of the fuqahā'.

According to L. Provençal, it was al-Ḥakam I who bestowed the status of the official law of the land on the Mālikī school. During the later period of Ḥakam I's reign, the fuqahā' began to oppose the Amīr as he tried to curtail their influence in political affairs. The fuqahā' demonstrated their strength by staging two revolts in 189 and 201, allegedly led by Yahyā al-Laythi, in the suburbs of Cordoba. Although al-Ḥakam I suppressed these revolts ruthlessly still he did not succeed in eliminating the influence of the fuqahā'.

Islamic legal tradition in Spain, during this period, developed in two forms: (1) transmission of the Sunnah of the Prophet (peace be on him), and (2) responding to questions related to the day to day problems. As to the Sunnah, Imām Malik's al-Muwatta' came to be recognised very early as the most reliable record of the Sunnah. It was transmitted, abridged and glossed upon by numerous scholars in Spain. The second form, called fuyūḥ, grew initially in response to questions about issues on which al-Muwatta' was either silent or unclear. These answers (based on the principles of al-Muwatta') by Malik or his disciples were compiled in al-Mudawwannah.

During the second hijrah century juristic writings, therefore, centred around these two books: al-Muwatta' and al-Mudawwannah. Of the various versions of al-Muwatta' reported in Spain, the two, by Shabaṭūn (Simā' Ziyād) and Yahyā, became prominent. It was however, Yahyā's version that finally prevailed because Yahyā had the opportunity to update it with Malik's disciple Ibn al-Qāsim as well.

According to Ibn Khaldūn, the systematization of the substantive laws (fiqh) of the Mālikī school began with Ibn Qāsim, who compiled al-Mudawwannah. Ibn Qāsim's disciples in Spain and Africa compiled their own versions of al-Mudawwannah. In Cordoba, Ibn Ḥabīb compiled al-Wādiḥah and al-'Utbi wrote al-Mustakhrajah, popularly known al-'Utbiyyah. Asad ibn Furāt in Qayrawān wrote al-Asadiyyah. It was al-'Utbiyyah that prevailed.
because it was more comprehensive and more clearly written than *al-Wādihah*, and *al-Asadiyyah*.

**THE SECOND PERIOD (238–401)**

**The Formative Period**

On the whole, the third century was a critical period for Mālikism in Spain. The Umayyad Caliphs in Spain, like their contemporary 'Abbāsid caliphs in Baghdad, encouraged cultural expansion. Their patronage led to the flowering of various arts and sciences. Philosophers, artists and men of letters flocked to the Umayyad court from other parts of the Muslim world. Simultaneously, the art of manufacturing paper also reached Spain. Xativa (Shāṭība, Jativa), Valencia and Toledo became the centres of this industry. Writing, copying, and collecting books on almost every subject became more common. The *fuqahā'* felt threatened by this cultural onslaught and resorted to *taqlid* as a matter of policy.

We have discussed above the views of scholars on the role of the *fuqahā'* in introducing Mālikism in Spain. How did the *fuqahā'* formulate Mālikism in this period of critical opposition, and how did they manage to achieve a group-solidarity that carried them through in this period of trouble, are the questions that are still to be studied in detail. Thomas F. Glick explains the rise of the *fuqahā'* in Spain as the emergence of the “middle class” whose social base lay in the commercial and industrial sector. They constituted the personnel of the judicial and executive offices in cities as well as in towns. Thus they provided the society with a low-level institutional continuity even in the face of political instability at its upper level. This “middle class” was characterized by a combination of commercial and scholarly interests. They frequently travelled to other parts of the world to learn hadith, fiqh and other sciences. In fact, this travel in the early period was institutionalized as *rihlah*, and made scholars the most mobile people. These travels not only led to tremendous religious and moral authority, but also prosperity, as most of them practised trade, at least to finance their travels.

The group-cohesion among the *fuqahā'* was established very early in the second century. They were able to perpetuate it by virtue of the structure of learning itself. Scholarly genealogies played a crucial role in establishing their authority.

The system of education in Spain centred around the personality of the teacher. The system of *madrasah* established and controlled by the rulers or the trustees, where several teachers delivered lectures on a variety of subjects, did not exist in that period.
Education was solely in the hands of the *fuqahā*'. After analysing the institutions of learning in the Muslim East and West, George Makdisi concludes that the Eastern type of *madrasah* institution did not exist in the Mālikī areas because the particular interpretation of *waqf* (trust) that produced this institution was not permitted in the Mālikī law.\(^{44}\)

The personal relationship between the student and the teacher in the system of education in the Muslim West strengthened the influence of jurists. They were thus able to resist attempts, made by the governments, for teaching philosophy, mysticism and all such sciences which could lead to free thinking and deviation from the *taqlid* of the Mālikī law.

Control of education meant control of government offices also, especially the administration of justice. A variety of new offices related with the judiciary were also developed. The Spanish jurists particularly specialized in legal drafting, jurisconsulting and writing of contracts. In this was, they had a stronger influence on the judiciary to whom the *amīrs* of Cordoba had to turn frequently to seek legitimacy of their actions against their political opponents.

During the reign of ‘Abd al-Rahmān II (236–238), a wave of Christian revolts arose in Muslim Spain. Christian fanatics volunteered for martyrdom by vilifying the Prophet Muḥammad (peace be on him) in public.\(^{45}\) The *Amīr* turned to the *fuqahā* and judiciary for suppressing these revolts. Similarly, Muḥammad I (238–275) also sought the support of the *fuqahā* against his opponents who were inciting ethnic strifes and political revolts against his government.

‘Umar ibn Ḥāfsūn (d. 305), a rebel and apostate to Christianity, led a dangerous revolt in the Southeast of Andalusia. This revolt which began in Muḥammad I’s reign continued until ‘Abd al-Rahmān al-Nāṣir put an end to it.\(^{46}\) After suppressing this revolt, al-Nāṣir took strong measures to deal with the Fāṭimid threat. Externally, he negotiated alliances with North African rulers and engaged Fāṭimid in war on the soil of North Africa. Internally he encouraged the *fuqahā* to seek and execute the Fāṭimid agents in Spain. This policy was pursued with vigour as is evident from the account of a trial that took place during the reign of Caliph al-Mustansir al-Ḥakam II.

A certain scholar named Abu‘l Khayr was tried by *qādi* Ibn Sahl. The witnesses testified that he vilified the wives of the Prophet (peace be on him) as well as his Companions. It is significant to note that in addition to other accusations, he was also charged with “professing the religions of the east, may God’s curse be on them”.

\(^{44}\) George Makdisi, *Islamic Education in the East and West*, 1974, pp. 84–85.


The above examples illustrate how the fuqahā' used these occasions to consolidate their tradition. It is particularly significant to note that the above-mentioned rulers were those who had done their utmost to curtail the powers of the fuqahā'. They adopted various measures to undermine their influence. Muhammad I encouraged the Hanbalis and Shafi'is to develop as alternate schools.48 Al-Mustansir founded a library and a university in Cordoba, collected books on different sciences and encouraged the study of Philosophy and Greek sciences.49 The fuqahā' considered these steps a threat to Mālikism and when these rulers sought the fuqahā's support, the latter seized this opportunity to strike against the rationalist trends.

Polarisation between the state officials and the fuqahā' had been growing steadily. The fuqahā' were fully conscious of this polarisation and adopted an increasingly strong posture of taqlid. Caliph 'Abd al-Rahmān al-Nāṣir was interested in a certain piece of land which was a trust property. He called his shūrā' (consultative assembly) to advise him. Qāḍī Ibn Baqi advised that the trust property could not be appropriated for any other purpose. The Caliph's ministers denounced the qāḍī's advice. The qāḍī was supported by all the jurists in the Shūrā. The ministers attacked the fuqahā' saying how could such an advice be given by those who were themselves accustomed to usurping properties of orphans, accepting bribes and giving false testimonies. A jurist, Muhammad ibn Ibrāhīm took exception to these remarks on behalf of the jurists who rose up in protest. The Caliph apologised and the shūrā was dismissed. Muḥammad ibn Yahyā ibn Lubābah, a jurist whom al-Nāṣir had dismissed earlier from shūrā offered to solve the Caliph's problem if he was reappointed a member of the shūrā. The Caliph recalled the shūrā after re-appointing him. Ibn Lubābah advised that the Caliph could opt for the Hanafi view about the trust property which was favourable to him. The jurists protested vehemently and condemned Ibn Lubābah for giving up the Mālikī doctrine to which his ancestors had adhered.50

Besides such strict adherence to the Mālikī school, the fuqahā' also insisted on putting a ban on the teaching of philosophy which had produced "false religions in the East". The teaching of philosophy thus came to symbolise freedom to escape from the bond of conservative Mālikī tradition. The Caliphs and state officials would patronise philosophy when they wanted to contain Mālikism and proscribe books on philosophy in the same vein to please the fuqahā'. Al-Hakam II, for instance, used to patronise philosophers to counter the fuqahā'. When the fuqahā' revolted against al-Manṣūr, he publicly set fire to books on philosophy which al-Hakam II had collected in his library.51 During the reigns of the Caliphs mentioned above, schools of law other than the Mālikī, were provided a chance to prosper but only the Shafi‘i school proved resilient enough to keep reappearing intermittantly.
Hārūn ibn Naṣr al-Qurṭubi (d. 302), Uṭmān ibn Sa‘īd al-Kinānī (320), and Ḥāsim ibn Ḥabīb al-Mukhtarī (d. 302), Uṭmān ibn Sa‘īd al-Kinānī (320), and Ḥāsim ibn Ḥabīb al-Mukhtarī (d. 302), and Aslam ibn ‘Abd al-‘Azīz (d. 319) revived Qāsim ibn Sayyār’s legacy of the Shāfi‘i school.52 As we shall see later, the Shāfi‘i influence manifested itself more strongly in the promotion of the studies of hadīth and usūl al-fiqh.

During this period Mālikism became increasingly introvert. Almost all the Mālikī jurists paid exclusive attention to al-Muwatta’ and al-Mudawwanah, writing recensions, abridgements and glosses on these books. Abū Sa‘īd Abū’l Qāsim Khalf ibn Abū’l Qāsim al-Azdzī, known as al-Baradha’ī (d. 373?) wrote an abridgement of al-Mudawwanah. This abridgement became so popular that it replaced al-Mudawwanah itself. Several scholars wrote further commentaries and glosses on it. It continued to serve as a textbook for two centuries before the arrival of Ibn Ḥājib’s Mukhtaṣar in Spain.53 Faḍl ibn Salmā al-Juhānī (d. 319), Muḥammad ibn ‘Abd Allāh ibn ‘Ayshīn (d. 341) of Toledo, Muḥammad ibn ‘Abd al-Malik al-Khulānī (d. 364) of Valencia, and Abū ‘Abd Allāh Muḥammad ibn Abī Zamanīn (d. 399) also wrote abridgements of al-Mudawwanah.54

It seems that the theoretical and philosophical aspects of law did not receive much attention from the Mālikī jurists. The biographical accounts ascribe titles of “Kitāb fi’l Usūl” to Yaḥyā ibn ʿUmar (289) and ‘Abd al-Malik ibn Ahmad ibn al-Mashsh (d. 336), but no further details are available.55 The principles of the Mālikī school were perhaps more extensively elaborated by Abū ‘Abd Allāh Muḥammad ibn Ḥārīth al-Khushānī (d. 361) who wrote, besides Tabaqāt al-Malikīyyah, the following significant works in this field: Al-Ittifaq wa’l Ikhtikif and Ra’y Malik al-ladhi khālafahu fihi Aṣḥabuh.56 Similarly Abū Bakr Muḥammad ibn Yaqūb ibn Zarb (d. 381) wrote Kitāb al-Khiṣāl to refute Ḥanāfī legal doctrines.57

The field of Islamic law that most attracted the attention of writers in this period was wathā’iq (legal documents). Ibn Ḥālib’s work is known as the first book to be written in this field.58 Abū ‘Abd Allāh Muḥammad ibn Abī Zamanīn (d. 399) who wrote abridgements of al-Muwatta’ and al-Mudawwanah, also wrote Usūl al-Wathā’iq.59 The two outstanding authors on wathā’iq in this period were Ibn al-Hindi and Ibn al-ʿAttār. Ahmad ibn Sa‘īd ibn Ibrāhīm al-Hamādānī, popularly known as Ibn al-Hindi (d. 399), was an expert in the science of Shurūṭ (legal drafting). His book on wathā’iq was cited as an authority in the courts of Spain and Africa. It seems that he was not particularly popular among his contemporaries. Ibn Ḥayyān calls him discourteous (ʿadīm al-murū‘ah).60

Abū ‘Abd Allāh Muḥammad ibn al-ʿAttār (d. 399) was another expert in legal drafting. He also wrote books on Shurūṭ and Wathā’iq. His rigidity,
particularly in matters relating to torts, made him unpopular. He was placed under house-arrest and dismissed from shūrā by the qādi of Cordoba. He was later reinstated after investigation.\textsuperscript{61}

Another subject that attracted the attention of scholars in this period was the refutation of philosophers and Sufis. Muḥammad ibn Ḥasan al Zabīdī (d. 377), the qādi of Seville wrote Kitāb fiʿl Radd ʿalā Muḥammad ibn Masarra to refute Ibn Masarra who was considered to be inclining towards the Ismāʿīlī esoteric philosophy.\textsuperscript{62} Abū Muḥammad ʿAbd Allāh ibn Jaʿfar (d. 392) wrote a condemnation of the exaggerated emphasis on miracles worked by saints.\textsuperscript{63}

To sum up, the formative period of Malikism in Spain was strongly influenced by political and social insecurity. Taqlīd, as well as anti-rationalist attitude, adopted as a policy for security, played a major part in the formation of Mālikī law in Spain.

THE THIRD PERIOD (404–626)

The Consolidation

This period is marked by political instability in Spain. The Umayyad Caliphate in Cordoba had been weakened by ethnic conflicts and court intrigues. The caliphs who succeeded al-Mansūr could not hold the system together. Consequently smaller principalities declared independence one after the other. This is known as the period of petty kings. Malaga and Saragossa declared their independence in 402 and Granada in 404. Very soon, other principalities followed suit. Finally Banū Jawhar captured Cordoba in 425 and the Caliphate came to an end.

Christian kingdoms in Northern Spain, encouraged by this state of affairs, started moving southward. Muslim kings sought alliances sometimes with African rulers and sometimes with Christian kings against their rivals. Gradually, the pace of the Christian conquest of Spain accelerated. One of these petty kings, Banū ʿAbbād of Seville, who excelled others in their patronage of Islamic tradition as well as art and culture, negotiated an alliance with al-Muʿrābīṭūn in North Africa against the impending Christian attacks. Yūṣuf ibn Tāshufin crossed over to Spain and defeated the Christians in 479. Muslim Spain thus came under al-Muʿrābīṭūn in 485. They ruled until 542, when another North African dynasty, al-Muwaḥḥidūn, conquered Spain, whose rule lasted until 626. Meanwhile the Christians continued their advance and the Muslim frontiers kept on shrinking.

Muslim lands in the East were also under attack by Christian Crusaders. Internally, the Ismāʿīlī movement proved to be a constant threat. Nīẓām
al-Mulk established a network of madrasahs to counter their activities and to consolidate the intellectual foundations of the Muslim society. He was murdered, however, by an Ismāʿīlī assassin. Among the outstanding scholars who worked for the consolidation of the Islamic tradition was al-Ghazālī (d. 505). He attempted the systematization of several sciences like kalām, usūl, and fiqh etc. His major contribution lies, however, in his refutation of philosophy and the reconstruction of Šūfī thought. Even though similar attempts for consolidation were being made in Spain, still al-Ghazālī was not acceptable to the Muslim fuqahā' because of his indulgence in taṣawwuf.⁶⁴

The political instability in the period of petty kings proved, in fact, more suitable for the fuqahā's consolidation efforts as there was no interference from the rulers. Further, in addition to political instability and the imminent threat of the Christian conquest, the increasing interest of rulers in philosophy, art and culture, led credence to the fuqahā's public appeal for conserving and consolidating the tradition.

The rule of al-Murābiṭūn proved a real blessing for the Mālikī fuqahā'. The Murābiṭūn were strict followers of the Mālikī school. Since the fuqahā' had invited Murābiṭūn to Spain,⁶⁵ there developed a very strong alliance between the two. Although the Murābiṭūn had come initially to help the king of Seville against the Christians, very soon they found it necessary to take control of Spain directly into their own hands. The fuqahā', especially the qādis of various principalities, openly helped the Murābiṭūn against their local rulers. With the support of the Murābiṭūn, the fuqahā' availed the opportunity to purge Muslim Spain of the influences of anti-Mālikī elements that had penetrated during the period of petty kings.

Ibn Hamdūn, the qādi of Cordoba, obtained the Amir's approval to destroy all the copies of al-Ghazālī's philosophical works.⁶⁶ Philosophical thought, especially Ismāʿīlism, had penetrated in Spain through the school of Ibn Masārrah (d. 318) who taught secretly in Cordoba. The school had already witnessed a period of trial during the reign of Maḥṣūr. Books written and possessed by Masārrah and his followers were burned. Several of them were imprisoned and the rest expelled from Spain.⁶⁷ The school, however, re-appeared during the period of petty kings with renewed focus on Sufism and neo-Platonism. The famous sufi, Muḥy al-Dīn Ibn al-ʿArabī (d. 638), is claimed to have been influenced by this school.⁶⁸ The fuqahā' took a serious note of this reappearance. Abū ʿUmar al-Ṭalamanqī (d. 429) wrote a refutation of Ibn Masārrah.⁶⁹ His disciple Abu'l Ḥasan ʿAlī ibn Khalaf al-Bakrī, known as Ibn al-Lajjām (d. 444), and Abū Ayyūb al-Tilāmṣī wrote books to explain the Sufi practices.⁷⁰
The Muwahhidun believed that the Murabitiin had deviated from the right path. Unlike the Murabitiin, they did not have high regard for any school of law. Gradually Maliki fiqh lost its prestige at the court. The Muwahhid rulers favoured hadith and some of them patronised the Zahirii school. Ya’qub ibn Yusuf (d. 596) adopted the Shafi’i school. He allowed only Muwatta’ and books of Hadith to be studied and ordered public burning of other Maliki works.71

The Muwahhidun’s support for the Shafi’i school also meant encouragement of Ash’ari kalâm and Zahirism. Indirectly it gave rise to interest in philosophy. Great philosophers like Ibn Tufayl (d. 581) and Ibn Rushd (d. 595) flourished during this period. With reference to Islamic law, however, encouragement of rational sciences meant interest in usul al-fiqh. Maliki scholars wrote comparative studies of the Shafi’i and Maliki principles of jurisprudence. Some of them compared legal theories and tried to develop syntheses of the principles of various schools of law.

The consolidation of the Maliki school in Spain was made possible in this period by the fact that these two centuries produced a number of jurists and scholars who had the requisite skill and knowledge to deal with these subjects systematically.

The foremost among these scholars was Abû ‘Umar Yusuf ibn ‘Umar ibn ‘Abd al-Barr al-Namiri (d. 463). He extensively studied al-Muwatta’ and produced comprehensive and voluminous reference works on its text; its narrators; their names, genealogies, tribes, places, etc. He also compiled a text-book on Maliki substantive laws, al-Kafi, and books on comparative law and conflict of laws like Kitâb al-Insâf fi mâ fi Bismillâhi min al-Khilaf, in which he criticised several Maliki doctrines.72

The most outstanding contribution towards the consolidation of the Maliki school was made by Abû’l Walid Muhammad ibn Aham ibn Rushd (d. 520). He had developed a truly perceptive mind by an extensive study of the fiqh literature. He served as a qadi of Cordoba for some time but soon resigned for devoting himself to the compilation and teaching of the Islamic law. Two of his works constitute an outstanding contribution towards systematization of Maliki fiqh. His voluminous work entitled al-Bayân wa’l Tahsil is a digest of various expositions of al-’Utbiyyah (al-Mustakhrajah). The other work, al-Mugaddimât, epitomises al-Mudawwanah and other standard works of Maliki law. Because of his contribution, he is counted among the four Imams of the Maliki school who are considered authorities on conflict of laws.73 An equally important contribution in this field was made by qadi ‘Iyad in his work al-Tanbihât ‘alâ al-Mudawwanah.74
Similar consolidation efforts were made in the field of usūl al-fiqh. Abū 'Umar al-Ṭalāmānī (d. 429) wrote Kitāb al-Wusūl ilā Ma‘rifat al-Uṣūl; Abūl Ḥasan ‘Alī ibn ‘Abd al-Malik al-Ḳitāmī ibn al-Qaṭṭān al-Ḥamīdī (d. 628) wrote Kitāb al-Iqna‘ fi Masā‘il al-Ijmā‘, Kitāb Aḥkām al- ‘Nazar and Kitāb al-Nizā‘ fi‘l Qiyās. These and other titles of the books on usūl are also indicative of the basic questions being debated about the principles of jurisprudence in this period. Since the Shāfī‘ī and Zāhīrī schools had reached Spain by this period, Mālikī scholars had to defend themselves against their attacks and to consolidate their position. In this regard, Abūl Walīd Sulaymān ibn Khālīf al-Bājī (474) occupies a distinguished position because of his debates with Ibn Ḥazm (d. 454), the leader of the Zāhīrī school in Spain. In addition to his work on al-Mudawwanah, he also wrote several books on usūl. Among them al-Ishārah, Aḥkām al-Fusūl and al-Khilāfīyyāt had considerable impact. Ibn Ḥajīb, whose influence on Mālikism in Spain shall be noted subsequently, used these works to compile his book on usūl.

Abū Muḥammad ‘Alī ibn Ḥazm al-Qurṭūbī (d. 454), though not a Mālikī jurist, deserves mention here. He began his career as a Shāfī‘ī but very soon found himself attracted to the Zāhīrī school. The hardships that he suffered at the hands of Mālikī fuqahā‘ because of this “deviation”, hardened his attitude towards these schools very deeply. In addition to his monumental work al-Muḥallā, a comprehensive and systematic treatment of the Zāhīrī legal doctrines, he also wrote al-Iḥkām fi Uṣūl al-Aḥkām as well as refutation of qiyās, ijmā‘ and istiḥsān. Ibn Ḥazm was a man of letters and an erudite scholar. His critique of his opponents evoked continuing debates.

Al-Qawāsim wa‘l ‘Awāsim, the polemical work of Abū Bakr ibn al-‘Arabī (d. 543), also reflects the disputative intellectual milieu of this period. Ibn al-‘Arabī’s al-Maḥṣūl fi Uṣūl al-Fiqh and al-Inṣāf are significant works on usūl.

The contribution that consolidated the Mālikī usūl in the context of their application to substantive law as well as to review legal doctrine in the light of these principles was Bidāyat al-Mujtahid of ibn Rushd (d. 590). Although he refuted al-Ghazālī’s views against philosophy, he abridged al-Ghazālī’s al-Mustaṣfā in usūl. He suffered at the hands of Mālikī fuqahā‘ on account of his defence of philosophy and rationalism against attacks by anti-rationalists.

Mālikism was criticised by Shāfī‘īs, and Zāhīrīs as well, for their neglect of the Qur‘ān and the ḥadīth in favour of Mālikī fiqh. Even scholars like Ibn ‘Abd al-Barr were critical of the Mālikī fuqahā‘ on this point. Consequently, we see increasing attention to the study of the Qur‘ān and the ḥadīth in this period.
The most outstanding contribution to the studies of the Qur'ân in this period was made by qâdi Abû Bakr Ibn al-'Arabî. His commentary on the Qur'ân Ahkâm al-Qur'ân is a consolidation of Maliki fiqh in the context of the Qur'ânic sciences.\(^{83}\)

We have already mentioned Ibn 'Abd al-Barr's works. Abû 'Umar al-Ţalamankî wrote Kitâb al-Bayân fi l'râb al-Qur'ân and Faḍâ'il Mâlik wa Riǰîl al-Muwatta'.\(^{84}\) Qâdî Abûl Faḍîr 'Iyâd ibn Mûsâ al-Yaḥṣabî (d. 544) wrote Tartîb al-Madārik and Qawâ'id al-Islâm.\(^{85}\)

Generally, the studies on ḥadîth by the Mâlikî fuqahâ' were carried out with particular reference to al-Muwatta', but in this period other collections of ḥadîth were also studied. Abû Qâsim al-Muhallâb ibn Aḥmad al-Tamîmî (d. 433) introduced the teaching of Bukhârî's al-Ṣâhih in Spain. He also wrote Al-Nasîh fi Ikhtisâr al-Ṣâhih.\(^{86}\) Qâdî 'Iyâd wrote a commentary on Muslim's al-Ṣâhih.\(^{87}\) Abû 'Abd Allâh Muḥammad ibn Aḥû Naṣr al-Azîdî (d. 488) wrote Al-Jam' bayn al-Ṣâhihâyn.\(^{88}\) Qâdî 'Iyâd's Mashârîq al-Anwâr is a commentary on Muwatta', Bukhârî and Muslim. His book al-Shifa' fi Ta'rîf Ḥuqûq al-Muṣṭafâ is a study in ḥadîth and sirâh.\(^{89}\)

THE FOURTH PERIOD (627–897)

Interaction with other Schools of Law and Thought

The Muwaḥhîdûn period had exposed Mâlikism in Spain to external influences. Spain was no longer isolated. It was very much part of North Africa. Its northern frontiers were continuously shrinking as Christians were making rapid advances. Comparatively speaking, however, the geographical boundaries of Muslim Spain came to be stabilized during this last period.

In general, this was a period of political stability for Muslims in other areas as well. Mongol invasions had devastated the 'Abbâsid Caliphate in Baghdad and most of the Muslim world. Only India, Spain, Egypt and North Africa had survived. But things were settling down in this period. Two major Mongol dynasties converted to Islam. Mamlûks, who had withstood the onslaught of the Mongols, stabilized their rule in Egypt and Syria.

In North Africa and Spain, the Muwaḥhîdûn were succeeded by Banû Marîn and Banû al-Nâṣr respectively. The Banû al-Nâṣr, also called Banû al-Aḥmâr, maintained their rule over Granada for a little more than two centuries by keeping a delicate balance of alliance with the Christian kings in Spain and with Banû Marîn in North Africa. These constant diplomatic activities could not go on without exposing Granada to external influences.
Internally also, the Nasrid Sultans had to maintain a delicate balance among the offices of shaykh al-ghuzā', wazīr and qāḍī al-jamā'ah—the three crucial offices of state—to protect themselves from the perennial court intrigues often instigated by Christian or African rulers. This power—game exposed Mālikism to a more extensive political role in which its conservatism became increasingly solidified.

The office of shaykh al-ghuzā' was instituted by the Banū al-Nāṣr to counter the influence of the tribe that had brought them into power. This office gradually became a source of influence for the Banū Marin of Africa. shaykh al-ghuzā' often came into conflict with ḥājīb/wazīr. In the beginning, the office of shaykh had absolute powers. Shaykh 'Uthmān murdered Ibn Maḥrūq, the wazīr of Sulṭān Muḥammad IV (725–733), and in 734 assassinated the Sulṭān himself. To curtail the power of the shaykh, Sulṭān Muḥammad V raised the status of wazīr.

Līsān al-Dīn Ibn al-Khāṭīb (d. 776) was given the status of wazīr and was charged with the responsibility of almost all the affairs of the government. Ibn al-Khāṭīb, an erudite scholar, historian, poet, linguist, and also a great jurist, was very critical of the role of the fuqahā' and their state of learning. Not only did he criticise them in his writings, but also ridiculed them in the court. He also interfered in the execution of their judgments.

Abū'l Ḥasan al-Nūbhī, the qāḍī al-jamā'ah, was often the target of Ibn al-Khaṭīb's derisive remarks. Al-Nūbhī (d. after 792) protested but endured the insult as long as it had the Sulṭān's approval. Ibn al-Khaṭīb soon provided him the occasion for revenge. During a negotiation with Banū Marīn, Sulṭān Muḥammad V found Ibn al-Khaṭīb taking sides with the Marīnī Sulṭān. The negotiations failed and Ibn al-Khaṭīb found himself in deep trouble. He defected to the Banū Marīn. Al-Nūbhī availed of this opportunity. He tried Ibn al-Khaṭīb in absentia and accused him of heresy, indulgence in philosophy and interference in matters of religion. Death sentence was passed against him and his books were burned in public. The Sulṭān sent the qāḍī to Morocco to bring Ibn al-Khaṭīb back to Granada. The Marinid Sulṭān refused to return Ibn al-Khaṭīb but put him in prison. Al-Nūbhī did not succeed in securing his extradition, but prevailed in having Ibn al-Khaṭīb killed in prison. His dead body was later burned in public.

This incident illustrates how the Sulṭān played the three important officials against one another. More significant, however, is the evidence of the fact that extreme polarisation between the fuqahā' and the rationalists still existed. The attitude of the fuqahā' against rationalism is illustrated by the following excerpt from al-Nūbhī's judgment against Ibn al-Khaṭīb:
If some written material, dealing with philosophical matters, which are contrary to the *Shari'ah* is found in someone’s hand-writing, the practice is to examine the writing. If it is clear that it is in his hand-writing and that it is written as his opinion or implies his agreement to that matter the case will be decided against him, even if he denies verbally and even if it is a quotation from a book of philosophy. . . . Who could be worse than the person who possesses such books. Such books must be burnt and such persons must be punished.91

The gulf between the state and the *fuqahā'* grew wider. The *fuqahā'* might have lost their political power at the court, but they were respected at the lower levels. The *muftīs*, who served as jurisconsults at the courts, and the *qādis*, together enjoyed authority and leadership in the Muslim community.

The *muftīs* and *qādis* of Granada were approached when ‘Abd Allāh, the last Naṣrid king, conspired against his father, Abu’l Hasan. He was supported by the courtiers who wanted to negotiate peace with the Christians. The *muftīs* condemned ‘Abd Allāh as a usurper and an illegitimate ruler. They also denounced the agreement signed by the court officials to surrender Granada to the king of Castile. This *fatwā* was signed by eight *muftīs* in 888. The notable among them were: ‘Ali ibn Muhammad al-Basti, known as al-Qalaṣādī (d. 891), and Abū ‘Abd Allāh Muḥammad ibn Yūsuf al-‘Aydārī, known as al-Mawwāq (d. 897).92 The court intrigues, however, succeeded and Granada was surrendered to the Christians in 897. Some of the signatories of this *fatwā* were also present at the ceremony of this surrender.

The Naṣrid kingdom came to an end but Islamic law and Malikism continued functioning in Spain. The Christian kings allowed Muslims to be governed by their laws, then called *Sunnah.*93 During this period, Muslims were led by the *qādis* and *al-faquies* (as they were then called). The crusading Christian Church never tolerated this situation. The Church kept on pressing Muslims to convert to Christianity. Systematic work on conversion began in 904. In 908 all Muslims were officially declared Christians and were prohibited from practising Islam. Until their final expulsion from Spain in 1020, Muslims were continuously subjected to inquisition, massacre and coercion. The elite had already migrated to Africa at the time of surrender, and from among the rest, all those who could afford, bribed their way out of Spain.

During the two hundred years of misery, and even afterwards, Malikism appears to have survived. Frequent revolts by Muslims against Christian kings were led by persons whom Spanish chroniclers call *al-faquies aljamas* (*faqīh al-jamā'ah*).94
Their closeness to the lower strata of the society made the fuqahā' aware of the economic and social problems. While political conditions in Granada forced the community to take refuge in the security of conservatism, the economic and social conditions pressed for a fresh look at the substantive laws. We have studied these conditions in detail elsewhere. Briefly, it may be stated that the pressure of the continuous migration into Granada, scarcity of resources, rise of Italian trade in the Mediterranean, payment of huge amounts of tribute to the Christians or Marinid rulers had heavily burdened the already fragile Granadian economy.

Socially, the Muslims had a closer contact with the Christians. There was an extensive movement of people between Christian and Muslim territories. People crossed borders as prisoners, refugees, traders, teachers, emissaries or mere travellers. Christian Crusades had become a permanent activity. This had given rise to the activity of annual jihād excursions. Various ribāts, built on the frontiers, attracted not only mujāhidīs and ghāzīs but also the Sufis who devoted their lives to fight against the Christians.

Mālikī fuqahā', in general, disliked the Sufī penetration as it encouraged not only idleness, parasitical behaviour but also developed an attitude of indifference to law. Jurists were frequently asked questions about Sufi practices. Questions about migration or about staying in a non-Muslim territory, about ransom for prisoners, trade with non-Muslims, unusual agricultural and commercial partnership, etc., found in the contemporary fatāwā literature, are indicative of the tension from which the fabric of Muslim society was suffering. The situation demanded a reconstruction of the theory of Islamic law that could rise above the doctrine of taqlīd to solve these unprecedented problems. Several jurists turned to other schools of Islamic law for the solution of day-to-day problems. The field of comparative law developed considerably in this period.

Abū‘l Qāsim Muḥammad ibn ʿAbd al-Qawānī ibn al-Gharnāṭī (d. 741) codified the Mālikī fiqh under the title Kitāb al-Qawānīn al-Fiqhiyyah fī Talkhīṣ Madhhab al-Mālikīyyah. This book became very popular. The significant contribution of the author to the field of law was, however, his book on comparative law: al-Tanbih ‘alā Madhhab al-Shāfi‘iyyah wa’l Ḥanafiyyah wa’l Ḥanbaliyyah. Muḥammad ibn ʿAbd al-Ḥarb (d. 741) wrote al-Fawāʾid al-Fiqhiyyah fī Madhāhib al-Mālikīyyah wa’l Shāfi‘iyyah wa’l Ḥanafiyyah wa’l Ḥanbaliyyah.

The interest shown by the fuqahā’ in other schools was also made possible in Spain by the influence of Ashʿarism, and particularly Shāfi‘ism, on Maliki usūl in Egypt. Fakhr al-Dīn al-Rāzī, a Shāfi‘i jurist, commentator and philosopher, had reinstated rationalism and philosophy by raising the
status of kalām from mere polemics to a religious science.\(^{100}\) His use of rationalist methodology in the commentary of the Qur’ān, and more particularly in \(uṣūl\) al-\(fīqāh\), made the Mālikī jurists take interest in logic as well as in philosophy.

Rāzī’s \(al-Maḥṣūl\) was a brilliant rationalist synthesis of the \(uṣūl\) works written by the Mu’tazilī, Ash’ārī, Ḥanafī and Shāfī’ī jurists. \(al-Maḥṣūl\) immediately manifested its impact on Mālikism in the East. Al-Qarāfī (d. 684) and Ibn Ḥājīb (d. 646) wrote abridgements and commentaries on \(al-Maḥṣūl\).\(^{101}\) Ibn Ḥājīb’s work gained currency in his own life time. His books on \(uṣūl\) and \(furū’\) were adopted as text-books and replaced all existing books in the schools.

Ibn Ḥājīb’s works were introduced in North Africa by his disciple Nāṣir al-Dīn al-Mishdhālī (731).\(^{102}\) Although he was critical of Rāzism in general, still he was instrumental in making Ibn Ḥājīb’s works popular in Spain as well, through his influence on Abū Manṣūr al-Zawāwī (765) and Sharīf al-Tilimsānī (d. 771), who frequently visited Granada on diplomatic missions and taught Ibn Ḥājīb’s works. Abū Ishāq al-Shāṭībī (d. 790) and several others were disciples of these scholars.

Ibn Khaldūn (d. 808) wrote an abridgement of Rāzī’s \(al-Maḥṣūl\).\(^{103}\) Ahmad ibn ‘Abd Allāh Abu’l Muṭṭarahī wrote a refutation of \(al-Maḥṣūl\).\(^{104}\) Abū ‘Abd Allāh Muḥammad al-Baqūrī (d. 707) abridged Qarāfī’s \(Furūq\) and Qāsim ibn ‘Abd Allāh ibn al-Shāṭī wrote \(Anwār al-Burūq\), a commentary on \(Furūq\).\(^{105}\) Several other books were written on \(uṣūl\) by great scholars like Lisān al-Dīn ibn al-Khaṭīb (d. 776) who composed \(Alfiyyah fi Uṣūl al-Fiqh\).\(^{106}\)

The most outstanding contribution in this period was made by Abū Ishāq al-Shāṭībī, whose \(al-Muwāfaqāt\) is a systematic reconstruction of Islamic legal theory, its objective being the development of a synthesis between Mālikī and Ḥanafī \(uṣūl\). Shāṭībī invited the \(fuqahā’\) to study the early writings and to deduce principles from them. He stressed on solving the problems by taking the basic objectives of the Law into consideration. In his \(al-Muwāfaqāt\) he expounded \(Maqāsid al-Shari‘ah\), the theory which emphasised the importance of the objectives of the Law.

Shāṭībī was critical of the legal methods employed by the jurists in his time. He found the \(fuqahā’\) interested more in \textit{status quo} than in dealing with the new problems. They had thus incorporated several practices into Mālikism which were contrary to its basic principles. According to Shāṭībī, the weakness of the system lay in relying on the “abridgements” (\(mukhtasārs\))
of the earlier authorities written by the later jurists, since that prevented scholars from consulting the original works.\(^\text{107}\)

In this respect the *Mukhtāṣar* written by Khalil ibn Ishāq al-Jundi (d. 776) deserves special mention. It took Khalil twenty-five years to write this text-book, and he successfully abridged almost all the legal doctrines expounded in the major Mālikī texts. It was so concise that it became enigmatic. But since it was concise it became instantly popular among the teachers of Mālikī law. This text was introduced into the Muslim West by Muhammad ibn 'Umar ibn al-Futūḥ al-Tilimsāni in 805.\(^\text{108}\) Its comprehensiveness increased the rigidity of conservatism among the Mālikī scholars. The famous saying of Nāṣir al-Dīn al-Laqqānī (d. 958): “We are followers of Khalil: if he was wrong, we, too, are wrong,”\(^\text{109}\) reflects the state of mind of the Mālikī scholars in this period. Ibn Khaldūn and Shāṭībī both argued that this attitude had led the Mālikī school into an *impasse*. They specifically criticised Ibn Shās (d. 610), Ibn Bashīr (d. 526), and Ibn al-Ḥājib\(^\text{110}\) for this state of affairs.

Shāṭībī also criticised the principle of *murāʿat al-khilāf*\(^\text{111}\) practised by the Mālikī jurists. This principle required that while issuing his *fatwā* a *mufī* must take a position which does not conflict with the opinion of any major jurist. This principle generated a paradoxical situation. In order to avoid *khilāf* (difference of opinion among scholars), the jurists began to rely on local judicial practice. This produced practices known as ‘*amal Qayrawān*, ‘*amal Fās*, and ‘*amal Andalus*.\(^\text{112}\) During the ‘Umayyad period the ‘*amal Andalus* prevailed throughout the Muslim West, but later the local ‘*amal* became dominant.

Al-Ḥaǰawī observes:

The Mālikī jurists held varying views on certain issues. Some judges favoured an opinion contrary to the better known Mālikī view simply in order to avoid its injurious effects, or to avoid public disapproval. Or they followed customary practices in matters where the source of law was custom or public interest. The later judges followed that judgment as long as the legal cause existed due to which the former judge had set aside the better known view.\(^\text{113}\)

Shaykh Khalil identified a number of issues in his *Mukhtāṣar* which were governed by ‘*amal*. Ibn ‘Āsim (d. 829) in his *Tuḥfat al-Ḥuḵkām*, ‘Ali ibn Qāsim al-Zaqqāq (d. 912) in *Lāmiyah* identified about twenty such cases. Later Abū‘l ‘Abbās Ahmad ibn al-Qādī al-Fāsī (d. 1025), the author of *al-Jadhwah* codified such cases in his book *Nayl al-ʿAmal fīmā biḥi bayn*
al-A'immat jarā al-'Amal. More books were written in this field by Sayyidi 'Arabi al-Fāsī (d. 1052), and Shaykh Mayyārah (d. 1051) who seems to be inclined towards the Hanafi definition of custom. Finally, Shaykh 'Abd al-Rahmān ibn 'Abd al-Qādir al-Fāsī systematized this whole tradition under the title 'Amal Fās. The judicial practices other than those of Fās, or those that did not adhere to any local 'amal were called al-'Amal al-Mutlaq. The appointment letter of a qādi contained a term saying: “He shall judge cases according either to the better known view of Mālikī school or to the judicial practice”. Hajawi observes that in practice it implied that the judicial practice was overriding. The development of 'amal in Mālikism reflects not only the conservatism of the tradition but also the institutionalisation of law as separate from theology.

These developments in Mālikī law influenced Christian Spain as well. Roman law had survived under the Muslim rule in Spain as Fuero Juzgo. From the study of its texts it appears that it was heavily affected by Mālikī legal doctrines, because a large number of Muslim practices were incorporated in this Fuero. The Fuero was not uniform; it differed from kingdom to kingdom. The Castillian kings tried to revive Roman law and to eliminate the Fuero system. A legal battle ensued between the supporters of two systems. During the period of Alfonso the Learned, the Bologna school of law distinguished itself in its efforts to reconstruct Roman law by applying the rigid method of Aristotle and to interpret it in the light of the Christian doctrine. The Christian doctrine defined the motive and purpose of law. In Spain, the University of Salamanca adopted this approach and soon became the most important centre for the study of Roman and Canon law. George Makdisi observes that the fact that whereas the colleges and universities in other parts of European Christendom focussed on theology, Spanish universities specialised in law, speaks of Muslim influence. This observation is supported not only by the existence of scholastic method that those universities adopted but their enquiries into the objectives and purpose of law.

Those universities produced a school of legal philosophers known as “Spanish theologian jurists”. Fransisco de Vitoria, who died in 1546 in Salamanca, and Francis Suarez, who was born in Granada in 1548 and died in Lisbon in 1617, were among the founders of this legal trend. Vitoria is known as the “expounder of the law of nations” and Suarez as the philosopher. The influence of this school on the development of international law in Europe is quite well-known. Suarez’s philosophy of law, particularly his doctrine that “common good of the community” was the end of law paved the way for the development of teleological schools of jurisprudence in Europe. To us this doctrine appears to be a continuation of the Mālikī doctrine of maṣlahah, especially of the theory of maqāsid al-Shari’ah as expounded by Abū Ishāq al-Shāṭibi in Granada.
NOTES AND REFERENCES

2. Dates given in this article refer to the Hijrah calendar.

26. Vide al-Jidi, Muhadarat, p. 34.
30. Lopez-Ortiz, Reccption.
34. L. Provençal, Histoire I, p. 149.
38. Al-Jidi, Muḥadarāt, p. 156.
46. S.M. Imamuddin, A Political History of Muslim Spain (Dacca: Najmah & Sons, 1961), pp. 75ff.
49. Imamuddin, Political History, p. 112.
51. Imamuddin, Political History, p. 119.
52. Palencia, Ṭārīkh, p. 431.
55. Ibid., p. 74.
57. Ibid., p. 268.
58. Al-Jidi, Muḥadarāt, p. 119.
62. Ibid., p. 115; Ibn Farhūn, Dībāj, p. 263.
64. See Maṣ‘ud, Islamic Legal Philosophy, pp. 59ff.
65. Imamuddin, Political History, p. 155.
66. Ibid., p. 163.
68. Ibid., p. 332.
71. Abū Zahrā, Mālik, p. 461.
75. See note no. 68.

78. Hajawi, al-Fikr, II, pp. 216–7; Ibn Farhûn, Dibâj, p. 120.

79. Al-Jidi, Muḥādārāt, p. 86.


81. Ibid., p. 221f; Ibn Farhûn, Dibâj, pp. 281–283.


84. Ibn Farhûn, Dibâj, p. 39.


88. Ibid., p. 217.

89. Ibn Farhûn, Dibâj, p. 170.

90. See for references, Mas’ud, Islamic Legal Philosophy, pp. 45–48.


92. Fernando de la Granja has discussed this document in “Condena de Bobadil por los al-Faquies de Granada,” Al-Andalus, xxxvi (1971), pp. 145–176.

93. Glick, Islamic and Christian Spain, p. 171, mentions the Charter of Denia (1227), by James I, the King of Aragon, which defines sunnah as the “privileges and customs which the Saracens were accustomed to have in the kingdom of Valencia”. Interestingly enough, the Jewish law has also been referred to in this Charter as “Sunnah of the Jews”.

94. Imamuddîn, Political History, p. 191.

95. See Mas’ud, Islamic Legal Philosophy, pp. 66–75.

96. Ibid., pp. 58–65, especially p. 60.


101. See Mas’ud, Islamic Legal Philosophy, p. 57f.

102. Ibid.

103. Al-Jidi, Muḥādārāt, p. 85.

104. Ibid., p. 78.

105. Ibid., p. 86.

106. Ibid., p. 82.


114. Ibid., p. 407.


See Mas'ud, Islamic Legal Philosophy, pp. 79–80.

Ibid., p. 80.


Mas'ud, Islamic Legal Philosophy, p. 80.

APPENDIX

SOME NOTABLE MUSLIM JURISTS OF SPAIN

Second Century

1. Ziyād ibn 'Abd al-Rahmān, known as Shababun (d. 193), resident of Cordoba, studied al-Muwatta' with Mālik. His recension of Muwaṭṭa' is known as Simā' Ziyād. He also studied with Layth and Ibn 'Uyaynah, Mālik’s disciples.

2. Abū 'Abd Allāh Muḥammad ibn Sa'īd ibn Sharaḥbīl (d. 198), Mālik’s disciple.

3. Ghāzi ibn Qays (d. 199), Mālik’s disciple.

Third Century

4. 'Īsā ibn Dinār al-Qurtubi (d. 212), studied with Mālik’s disciple Ibn al-Qāsim. Author of Kitāb Simā', and Kitāb al-Hadyah, he was known as “the jurist of Andalus”. He died in Toledo.

5. Yahyā ibn Yahyā ibn Kathīr al-Laythi (d. 234), a Berber of the Mašmūdah tribe. He was the disciple of Shabatūn and narrated al-Muwatta’ from him, as well as from Mālik and Ibn al-Qāsim. He was ranked next to 'Īsā ibn Dinār. Ibn Lubābah called him “the wise man of Andalus”. Ibn 'Abd al-Barr called him “the chief of the scholars”.


7. Abū 'Abd Allāh Muhammad ibn Ahmad ibn 'Abd al-'Aziz ibn 'Utbah, known as al-'Utbī (d. 254), belonged to the Umayyad family of Abū Sufyān. He migrated to Cordoba. He had studied al-Muwatta’ with great scholars like Yahyā, Saḥmūn and Asbāgh. He compiled al-Mustakhrajaḥ on Mālikī law.

8. Abū Zayd 'Abd al-Rahmān ibn Ḥabīb al-Umawī (d. 258), a resident of Cordoba, studied with great scholars like Yahyā, Ibn Mājahshun and wrote eight books on Mālikī Law.


10. Abū ’Abd Allāh Muḥammad ibn 'Umar ibn Lubābah al-Qurtubi (d. 314)


15. Muḥammad ibn ‘Abd Allāh ibn ‘Ayshūn (d. 341) from Toledo; abridged al-Mudawwanah.

16. Abū ʿIbrāhīm ʿIshaq ibn ʿIbrāhīm ibn Masarraḥ al-Tujībī (d. 355), originally from Toledo, had settled in Cordoba. He was famous for his skill in fatwā, for his knowledge of hadith,
and for legal debates. He was appointed a jurisconsult by Hakam II. He is the author of 

al-Nasā‘īh and Ma‘ālim al-Tahārah. 

Abū 'Abd Allāh Muḥammad ibn Hārith al-Khuṣānī (d. 361), originally from Ifriqiyyah, 

had settled in Córdoba. He earned fame for his researches on the issue of the prayer 

direction of the mosque in Ceuta. He had served as administrator of estates in Bougie. He is 

the author of al-Itīfāq wa‘l-Iktīfā, Ra‘y Mālik alladhī Khādaʃahu fihi Aẓbābhu, and Ṭabagāt 

al-Mālikiyyah. 

Muḥammad ibn 'Abd al-Malik al-Khulānī (d. 364), from Valencia; abridged al-Mudawwannah. 

Abū Bakr ibn Muḥammad ibn Yabar ibn Muḥammad ibn Zarb (d. 381), a judge in Córdoba, 

wrote Kiṭāb al-Khīṣāl to refute Hanafi jurists. 

Abū 'Abd Allāh Muḥammad ibn 'Abd Allāh ibn 'Isā ibn Abī Zamanān (d. 399), originally 

from Elvira, had settled in Granada. He was a distinguished scholar in the fields of law, 

hadīth, literature, lexicography and poetry; wrote Kiṭāb al-Muntakhāb, Iktīṣār al-Muwattā’, 

and Uṣūl al-Wadhīq. 

Ahmad ibn Sa‘īd ibn Ibrāhīm al-Ḥamadānī (d. 399), known as a scholar from India. His 

books on shurūrāt were cited as authority in the courts in Ādalus and North Africa. 

Abū 'Abd Allāh Muḥammad ibn Āḥmad ibn 'Abd Allāh ibn al-Ḏattār (d. 399) was a skilled 

notary and draftsman. His command on legal language and 'īm al-shurūrāt earned him fame 

as well as suffering. He was placed under house-arrest and forbidden by the Chief Judge in 

Córdoba from acting as a jurisconsult. 

Fifth Century

Abū 'Umar Ahmad ibn 'Abd al-Malik ibn al-Makwā (d. 401), belonged to Seville, was 

known as Shaykh al-Andalus. He earned fame as a judge when he differed with Ibīn Abī 

'Amīr by refusing to issue death sentence on mere intention to murder. 

Abū Ayyūb Sulaymān ibn Bāṭṭāl al-Bāṭlayūsī al-Tilamānī (d. 402), wrote al-Muqni’ī fi ʿusūl 


Muḥammad ibn Yahyā ibn Ahmad ibn Muḥammad al-Tamīmī, ibn al-Ḥadhdhā (d. 410), 

was the qaḍī of Seville. 

Abū 'Abd Allāh Muḥammad ibn 'Umar ibn Yūsuf ibn Bashkwāl ibn al-Fakhkhār al-Qurtubī 

(d. 419) was an expert in the fields of hadīth, history and law. He migrated from Córdoba 

when Berbers came to rule there and settled in Valencia. He is the author of Iktīṣār Nawādir 

ibn Abī Zayd, Radd alaʿ ibn Zayd, Taḥṣīrah, and Radd alaʿ waṭḥāʾiq ibn al-ʿAttār. 

Abū 'Umar Ahmad ibn Muḥammad al-Talamanīkī al-Muʿārīfī (d. 429), originally from 

Ṭalamanīka (East Spain), was educated in Córdoba. He wrote Kiṭāb al-Dalīl ilā ʿArīf 

al-Ǧalīl, al-Bayān fi ʿrāb al-Qurān, Faddaʿiʿ al-Mālik, Rijāl al-Muwattā’, al-Radd alaʿ ibn 

Maysarah, and al-Wusūl ilā Maʿrisfāt al-Uṣūl. 

Abū'l Qāsim al-Muhallāb ibn Ahmad ibn ʿAbd Sahrā al-Tamīmī (d. 433), from 

Almería. Travelled widely in East and North Africa for education. He introduced Bukhārī’s 

Ṣaḥīḥ in Ādalus and wrote al-Nasīḥ fi Iktīṣār al-Ṣaḥīḥ. 

Abū'l Ḥasan ʿAli ibn Ḥakāf ibn Bāṭṭāl al-Bakrī ibn al-Lajjām (d. 444), from Córdoba, wrote 

commentary on Bukhārī’s Ṣaḥīḥ and Kiṭāb flr-Ṣaḥāb waṭ-Raʿīqa. 

Abū 'Umar Ahmad ibn Muḥammad ibn al-Qattān (d. 460), muṣīf of Córdoba, is known for 

exchange of fatawā with Ibīn 'Attāb. 

Abū 'Abd Allāh Muḥammad ibn 'Attāb (d. 463), Chief muṣīf and qaḍī in Córdoba: was 

known as an expert on matters relating to contracts. 

Abū 'Umar Yūsuf ibn 'Umar ibn 'Abd al-Barr al-Namīrī (d. 463), a leading scholar and 

muḥaddith of Spain, had travelled widely. He served as a qaḍī in Liṣab and Santarem, and 

died at Xativa. He wrote mostly on hadīth. His following works are on al-Muwattā’: al-Tamhīd 

'ala al-Muwattā’, al-ʿIṣāḥār bi ʿArād ʿUmmāa al-ʾAmsār, Kiṭāb al-Taqassā li Aḥādīth 

al-Muwattā’, Kiṭāb al-ʿAmār 'ala Qabāb ilā al-Ruwāt, Kiṭāb al-Qaṣīd waʿl Umam fī Ansāb 

al-ʾArab wuʿl Ajam, Kiṭāb al-ʾIsāʿāb, and Ǧāmiʿ Bayān al-ʾIla wa Ḍaṭūšī. He also wrote on 

33. Abū ‘Abd Allāh Muhammad ibn Abū Naṣr al-Azdī (d. 488) from Majorca, is the author of al-Jam' bayn al-Sahihayn, and Jadhwal al-Muqtasab.

34. Abū’l Walid Sulaymān ibn Khalaf al-Bājī (d. 494) was known for his several writings. His debates with Ibn Hazm were a significant contribution to usūl literature. Some of his works are: al-Iṣīfā ‘alā al-Muwatta’ al-Muntaqā, al-Muhadhtah, Ikhtisār al-Mudawwanah, and al-Itshārāt.


Sixth Century

36. Abū ‘Ali al-Ḥusayn ibn Muhammad ibn Fierro ibn Ḥaywan al-Ṣadāfī ibn Sakrah (d. 514), from Saragossa, was known for his knowledge of hadīth, rijāl and fiqh.

37. Abū’l Walid Muhammad ibn Ahmad ibn Rushd al-Qurtubi (d. 520), qādī of Cordoba, is the grandfather of the philosopher Ibn Rushd. His deep insight into legal matters is demonstrated in his book al-Muqaddamāt. Khāfīāl considers him as one of the a’immāt al-tarjīh (legal expert on conflicts of laws). He also wrote al-Bayān wa’l Tahsīl.

38. Abū Bakr Muhammad ibn al-Walīd al-Fīhri al-Turtāshī (d. 520), migrated from Saragossa to Alexandria. He wrote Kitāb fi’l Khāfīāl and Kitāb al-Bīda’.

39. Qādī Abū ‘Abd Allāh Muhammad ibn Ahmad ibn al-Hājjī (d. 529), wrote a commentary on Muslim, Kitāb al-Imān, al-Kitāb fi Bayān al-‘Ilm, and al-Nawzāl.


41. Abū’l Fadl ʿIyād ibn Mūsā al-Yahṣābī, known as Qādī ʿIyād (d. 544), originally from Spain, later migrated to North Africa. He served as qādī in Cordoba. His well-known works are: al-Shifā’ fi’l-Taʿrīf bi Huqūq al-Mustafā, commentary on Muslim’s Sahih, al-Tanbihāt ʿalā al-Mudawwanah, Tartisan al-Madārik and Qawā’id al-Īlām.

42. ʿAbd al-Ḥaqq ibn Ghalīb al-Muḥāribī al-Gharnātī (d. 546), qādī of Almeria, had the rank of muṣhārīk in hadīth and literature.

43. ʿUmar ibn Muhammad ibn Wājid al-Qaysī (d. 557) from Valencia, was known as Andalus for his faṭāwā. He held the rank of muqaddam in the shūrāt at the qādī court in Valencia.

44. ʿAll ibn Muhammad ibn Ibrāhīm Abū’l Ḥasan al-Fāzārī al-Gharnātī ibn al-Baqrī (d. 557), wrote Minhāj al-Sidād fi Shahr al-Īshārāt and Madārik al-Haqqāqī.

45. Abū Muhammad ʿAshīr ibn Muhammad al-Anṣārī ibn ʿAshīr (d. 567), wrote al-Jāmiʿ al-Ḥalīt.


47. Abū Muhammad ʿAbd al-Ḥaqq ibn ʿAbd al-ʿAzīz ibn ʿAbd Allāh al-Azīz ibn al-Kharrāt (d. 582) from Seville, migrated to Bougie at the end of the reign of al-Murābīṭūn. He was known for his refutation of qiyyās.

48. Ahmad ibn Muhammad ibn Ahmad al-Hilālī al-Gharnātī ibn Munāṣif (d. 585).


50. Abū’l Qāsim Ahmad ibn Muhammad al-Ḥufī (d. 588), qādī of Seville, was known for his expertise in the fields of farāʾid, tawḥīq and shurūṭ.

51. Abū’l Walīd Muhammad ibn Ahmad ibn Rushd al-Ḥāfīd (d. 595), was a great philospher, jurist and physician. He was an original rationalist thinker, and suffered because of his views. He was muṣhārīk in usūl and kalām. He wrote several books, among them: Kitāb al-Kulliyāt fi’l ʿIbāb, Mukhtāṣar al-Mustafa fi’l Uṣūl, Bidāyāt al-Mujahid, and al-Ḍārūrī fi’l-ʿAramiyāh.
Abū Bakr Muhammad ibn Ahmad ibn Abī Jamrah al-Mursi (d. 599), served as mushāwir in Murcia. He wrote Ṣulūq al-Afkar and Ḥily al-Ta'allūd.

Seventh Century

Abū Dhar Mus'ab ibn Muhammad al-Khushani (d. 604), was known as the qādi of Jaen. He migrated to Fāṣ. Ahmad ibn Hārūn ibn Ahmad ibn ʿĀl al-Nafāzī al-Shāṭībī (d. 609), was an expert in fiqh, hadīth and literature. He died on a battleground near Jaen. Wrote al-Nuzhah, and Rihānāt al-Nafs wa Rihāt al-Anfus fi Dхγr Shyākh al-Andalus.


Abū ʿAlī Ḥasan ʿAlī ibn ʿAbd al-Malik ibn Yahyā al-Kītāmī al-Ḥamīdī ibn Qattān (d. 628), originally from Cordoba, migrated to Sijilmasa where he was appointed a qādi. He wrote Kitāb al-Iqnah fi Masā‘il al-Ijmā‘, Ahkām al-Nazar, and al-Nizā‘ fi’l Qiyās.

Eighth Century

Abū’l Qāsim Muhammad ibn Ahmad ibn Jazīl al-Kalabī al-Gharnāṭi, (d. 741), migrated to Fāṣ. He was a mushārik in the fields of Arabic language, hadīth and tafṣīr. He wrote on several subjects. His works include: Kitāb al-Qawānīn al-Fiqhiyyah fi Talkhis Madhhab al-Malikīyyah, al-Tanbih ‘alā Madhhab al-Shafi‘iyyah wa’l Ḥanafīyyah wa’l Ḥanbaliyyah, Tagrib al-Wasqāl ‘ilā ‘Im al-USūl; al-Anwār al-Saniyyah.


Muhammad ibn Ahmad ibn Ḥarīb (d. 741), wrote al-Fawā'id al-Fiqhiyyah fi Madhāhib al-Malikīyyah wa’l-Shafi‘īyyah wa’l Ḥanafīyyah wa’l Ḥanbaliyyah.


Abu Sa‘d Farj ibn Qāsim ibn Lubbi al-Thalabī (d. 783), was the dominating personality in Granada. He was the chief muftī and head of teachers in his period. He had disputations in fatāwā with Ibn ‘Arafaḥ and Shāṭībī.

Abū Ishaq Ibrāhīm ibn Mūsā al-Shāṭībī (d. 790), an original thinker in ʿusūl al-fiqh, suffered at the hands of Mālikī conservative scholars. He opposed bid‘ah and disputed with his teachers Ibn Lubbi, Ibn ‘Arafaḥ, Ibn Qubāb. He is the author of al-Muwafqāt, al-ʿīṣām, and several other works.

‘Abd Allāh ibn Muhammad al-Sharīf al-Tilimṣānī (d. 792) was the leader of jurists in Tīlemcen. He taught fiqh, hadīth and tafṣīr in Granada. He issued fatāwā on various issues. He was drowned in the river while returning home from Granada.

Ninth Century

Abu Zakariyyā Yahyā ibn Ahmad al-Sarrāj (d. 805), originally from Ronda, migrated later to Fāṣ. His fatāwā and his correspondence with Ibn ‘Abbad of Ronda are very valuable contributions.

Muhammad ibn ʿAlī ibn Allāq (d. 806) was a muftī and qādi in Granada. He wrote a commentary on Mukhtasār Ibn Ḥājī, and on Farā’id Ibn al-Shāṭī.

Abū Zayd ʿAbd al-Rahmān, Ibn Khalduṇ (d. 808), originally from Seville, his family had migrated to Tūnis. He held very high positions in Tunis, Fāṣ, Granada and other places. During the later years of his life he served as a qādi in Egypt. He was an original thinker and statesman. He wrote commentaries on books on Philosophy and logic, but is known for his work on history and his introduction (al-Muqaddimah) to this work.
Abū Bakr Muḥammad ibn ‘Āṣim al-Gharnāṭī (d. 829), a qāḍī in Granada, is known for his still popular work *Tuhfāt al-Ḥukkām fi'l Ḥākām*.

Abū'l Qāsim, ibn Sarraj al-Gharnāṭī (d. 848), a muftī and qāḍī of Granada. He wrote a commentary on Khalil’s *Mukhtāsar*. He is known for his fatāwā which have been recorded in *al-Mīyār*.

Abū ‘Abd Allāh Muḥammad al-Ja’dalā (alive until 888). He was one of the muftīs of Granada at the time of surrender.

Abu'l Hasan ‘Alī ibn Muḥammad al-Qalasādī, (alive until 891), was the last of the author-jurists in Granada who wrote several books on arithmetic and inheritance as well as commentaries on law books. After the fall of Granada, he migrated to Africa. His works include *Ashraf al-Masālik ilā Madhhab Mālik*, *Sharḥ Mukhtāsar Khalīl*, *Sharḥ Risālah*, *Ḥidayat al-Anām*, a commentary on *Qawā'id al-Īlām*, *Ḥidayat al-Nuẓẓār fi Tuhfath al-Ḥukkām wa'l Asrār*, *Kashf al-Asrār ‘an Ilm al-Ghubār*, *Kashf al-Jilbāb ‘an Ilm al-Ḥisāb* and *Kulliyāt al-Farā‘īd*.

Abū ‘Abd Allāh Muḥammad ibn al-Azraq (d. 895). He was Chief Justice in Granada at the time of the fall of that city.

Abu'l Hasan ‘Alī ibn Da'ūd. According to Ahmad Bābā, he was alive until 896. He was muftī at the time of fall of Granada.

Abū ‘Abd Allāh Muḥammad ibn Yūṣuf ibn Abī'l Qāsim al-Mawwāq (d. 897). Ahmad Bābā calls him the last of the leaders of Granada. He was present at the ceremony of the surrender of Granada to the Christians. His fatāwā are recorded in *al-Mīyār*. He was the muftī of Granada. He wrote *al-Tāj al-iklīl*, (a commentary on Khalil’s *Mukhtāsar*), and *Sunan al-Muhtadin fi Maqāmāt al-Dīn* (a synthesis of usūl, fiqh and taṣawwuf).

Muḥammad al-Fakhkhār. He was a khaṭīb in Granada at the time of its fall.