

## The Administrative and Economic Role of Maliki Jurists in Andalusia and Maghreb

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**Abstract:** This research analyses the administrative and economic role of Maliki jurists in Andalusia and Maghreb during the Umayyad and Abbasid era. The Umayyad Caliphs and their leaders showed preference towards Maliki jurists when awarding administrative and economic appointments. This habit is good testimony that for the ruling Umayyad, a person's legal school was an important factor for the administration of the state and the preservation of their rule. The significance of this research is that it focuses on the progressive and historical evolution of the Maliki School of thought pertaining to the administrative and economic controls of Andalusia and the Maghreb. The significance of the paper also manifests in the articulation of Maliki dominance in public administration and the preference awarded to the Maliki School despite the opinion held by some jurists that public positions should not be dominated by a single legal school. It should be noted that to date no comprehensive study has been conducted on this issue and the authors were forced to reconstruct the scene based on numerous sources. However this research faced some difficulties due to insufficient references. With the support of the ruling Umayyad, Maliki jurists dominated public administration throughout the life of Islamic Andalusia and Maghreb with few exceptions. The essential question that this research attempts to answer is the extent to which Maliki Jurists dominated the administrative and economic management of the state and if they met with opposition? This article approaches these issues using the method of textual descriptive analysis.

**Key words:** Administration • Economy • Jurist • Maliki School • Andalusia • Maghreb • Market guardianship

### INTRODUCTION

There is little questioning the prominence of the Maliki doctrine in the cultural and intellectual map of Maghreb and Andalusia. The Maliki influence is even discernable from its imprint on the Islamic civilization. The dominance of the Maliki School in mundane affairs testifies to the prominent role of religion in all segments of the society.

Al-Maliki doctrine attributed to Imam Malik bin Anas Al-Asbahi, who set out his doctrine of Medina in the second century AH, so Malik was called the (Imam of Dar Al-Hijrah), where he was born, lived, died in Medina (95-179 AH) and did not travel except to Mecca for the purpose of Hajj [1].

However, administrative and economic life in the Islamic era was not detached from the religion and the doctrinal trends that were prevailed. The truth was that the religion and all aspects of life were intermixed and this was clear in Maghreb and Andalusia where the united doctrinal vision was controlling in most of the cases; that made a remarkable development in different aspects. This was a motivation to study this aspect and to provide a comprehensive picture for one of the Islamic civilization features.

**Expansion of the Maliki Doctrine Outside of Medina**  
**The Reasons for the Spread of the Maliki School:**  
Al-Maliki doctrine spread to several regions outside Medina. It reached Egypt, Sudan, Maghreb and

Andalusia to name a few. The establishment of an Islamic state in Andalusia by rulers who adhered to the Maliki School led to the creation of a state that championed the Maliki School by supporting Maliki jurists and awarding them public appointments throughout the state apparatus [2].

Among the reasons for the spread of the Maliki school and its popularity among the Umayyads is that Imam Malik was a staunch opponent of the Abbasids, which endeared him among the Umayyads [3].

Ibn Khaldoun mentions psychological and social factors that contributed to its spread. He explained in reference to the journeys of Maliki students, "they mostly traveled to the Hijaz. There, their journey ended. Medina, at that time, was the home of religious scholarship, which spread to the 'Iraq from there. The 'Iraq did not lie in the way of (the travels of the Maghribis and the Spaniards). Thus, they restricted themselves to studying with the scholars of Medina, that is, with Malik, the leading Medinese scholar at that time, as with his teachers before him and with his pupils after him. Thus, Maghribis and Spaniards (always) referred to (Malik) and became his adherents and nobody else's, as the methods of other (authorities) did not reach them." [4].

He further explained, "Furthermore, the desert attitude was predominant among Maghribis and Spaniards. They did not care for sedentary culture, such as existed among the 'Iraqis. Therefore, they were more inclined toward the Hijazis, because the Hijazis also had the desert attitude. Thus, the Maliki school among them always retained its simplicity and was not affected by the refinement and improvement of sedentary culture that took effect in other schools" [5].

Despite the growing urbanisation of the region, Ibn Khaldun's analysis argued that the people of the Maghreb maintained their cultural and Bedouin instincts and were not significantly affected by the rapid developments of the civilization and its increased contacts with neighbouring civilizations. They maintained their Hejazian character and by doing so preserved their Maliki roots [6].

Furthermore, it must be noted that Ibn Khaldun's testimony is of particular value given that he focused his theories on that region and was himself a Maliki jurist who was concerned with the sociology of the region. Additionally, among the reasons for the spread of Maliki thought outside of Medina, especially Andalusia and Maghreb, is the influence it exerted on the pilgrims during the Hajj and Umrah, not to mention that he was sought by students near and far [7].

**The Maliki Doctrine and Ambassadors to Maghreb and Andalusia:** The intellectual environment of the Maghreb and Andalusia consisted of a variety of intellectual and ideological doctrines other than Maliki. For example, the teachings of al-Awzā'ī prevailed in the fatwas and the judiciary in Andalusia for about forty years, which started with the first Umayyad caliph Abdulrahman ibn Mu'awiyah ibn Hisham (113-172h), through to the third caliph Hakam ibn Hisham (154-206h) [8]. Some adopted the al-Shāfi'ī school, but their numbers were relatively limited [9].

The Ḥāhirī School of thought founded by Ibn 'Azm al-Andalusī al-Ḥāhirī (d.456h) also emerged as a prominent school in the region and competed with the Maliki School. The rise of this school was assisted by certain political circumstances at the time [10].

It is worth to mention the confrontation between Al-Maliki's fuqaha and the famous narrator Baqi ben Mukhaled (d.276AH), who published the doctrine of Ahl Al-Hadeeth (The people of hadith) and was narrating on musnad of Ibn Abi Shaybah [11].

The transmission and spread of the Maliki doctrine in the Maghreb and Andalusia was largely affected through persons considered as ambassadors of the Maliki doctrine, who worked on the disseminating the doctrine by inviting people to it, writing, teaching and administrative works, etc. Through such activities they participated in the strengthening of the doctrine in Maghreb and Andalusia. Among the famous Maliki ambassadors are:

- Yahya ibn Yahya Laithi: He is Abu Muhammad ibn Yahya ibn Katheer. Imam Malik called him the sane of Andalusia (a'qil Al Andalus) and was close to the Sultan, his opinion were acceptable by judges, no judge was appointed in Andalusia without his consultation, he wouldn't recommend people unless from his companions or those who was on his doctrine..., He did not get in judiciary position and never responded to it when called (said to have died in 234 AH) [12].
- Asad ibn Al-Furat: He is Asad ibn Furat ibn Sinan Mawla (belong to) Ibn Saleem bin Qais, a famous follower of Al-Maliki doctrine, died in 213 AH [13].
- Issa ibn Dinar: He is Al-Maliki's jurist of Andalusia and he was the judge of Toledo (died in 212 AH) [14].

The research concludes that the Maliki doctrine has become a fundamental component in the everyday life of the Maghreb and Andalusia. Observing the Maliki

doctrine was a requirement for administrative and economic appointments, especially positions of influence, which demanded that the Maliki School serve as the arbitration mechanism. This contributed to the spread and growth of the Maliki thought. Religious unity also meant political unity. Al-Maliki doctrine became the fundamental doctrine and sometimes the only doctrine in Maghreb and Andalusia since the era of Prince Abdul-Rahman ibn al-Hakam (206-238 AH) [15], as the religious unity has meant to them the political unity and it meant being away from the intellectual contradictions and what will subsequent that in the social and the political cracking.

### **The Economic Role of Maliki Jurists**

**The Guardianship Of The Market And Its Impact On Economic Life:** The guardianship of the market (Muqasibah) is a prominent aspect of the religious management of the economy. Muqasibah refers to enjoining the right and forbidding the wrong and was encouraged by the caliphs, princes and jurists. They considered it as a forensic duty, in obedience with the verse of Qur'an, "Let there rise of you a group of people inviting to all that is good (Islam), enjoining al-Ma'ruf (i.e. Islamic monotheism and all that Islam orders one to do) and forbidding al-Munkar (polytheism and disbelief and all that Islam has forbidden.)" [Al-Imran: 104] And obeying the prophetic hadith, "Whoever among you sees an evil let him change it with his hand, if he cannot, then change it by speaking, if he cannot, then by his heart and that is the weakest of faith." [Related by Muslim]

**The Specifications Of A Market Guardian:** The caliphs and princes in Andalusia only appointed as market guardians those who met the strictest standards of honesty and justice, who was a serious and determined Maliki jurist, far removed from personal benefits and considerations [16].

Ibn Abdun says, "A judge shall not present a Muqasib (the guardian of the market), unless he informs the governor about him" [17] meaning that appointment must be within the specifications accepted by the governor.

The guardianship of the market in Andalusia and Maghreb is the same Muqasibah in the east, noting that the later scholars of Maghreb and Andalusia have used the word as is known from Ibn Abdun and others.

From an economic point of view, there must be a Muqasib (guardian) in charge of the market in order to control and monitor the weights, measures, scales, the safety of goods from deception, fraud or monopoly, price

manipulation, or dealing with sales agreements that are not allowed in the Islamic economic system. The task of the Muqasib is to organise the market and ensure that everyone follows the controls, limitations and rules of the social, economic and administrative system, all of course according to the Maliki doctrine.

The science of Hesbah has settled to the people of Andalusia as a science that has its origins and criteria and it is being studied like the rest of forensic science [18].

### **The Administrative Structure Of Market Guardianship:**

The function of the guardian of the market in the Maghreb and Andalusia was associated with the institution of the judiciary and remained that way the judge Sahnoun was appointed; Sahnoun hired guardians (Muqasibs) on his behalf and declared the separation of the guardian of the market from the judiciary. This led to an independent economic and administrative institution [19].

In Andalusia, the guardian of the market was known for his rigidity in enforcing the rules. In some cases, Muqasibs severely beat offenders as was the case of the well-known guardian Abbas bin Qraos who adhered to the view of some Maliki jurists who permitted the use of force as long as it is in the interest of religion [20].

The most important part here is that the guardians of the market were committed to the Maliki doctrine and they applied it when doing their jobs even if one of them thought a different view was more fitting. Such was the environment during the hey-day of the Andalusian caliphate in which they ruled with force. However, when the caliphate weakened, so did the authority of Maliki school in the region. Many changes took place within the society at all levels and the Maliki jurists could not keep pace with the rapidly changing social and political landscape. Due to this, the Maliki doctrine in the region slowly and gradually in the late years of Islamic Andalusia [21].

It's worth noting that demanding the judge or the guardian of the market to adhere to the views of the Maliki school was not accepted or agreed by all Maliki jurists as the Maliki jurist Ibn Farhun was not in its favour because he believed that the truth/right is not limited to a specific school [22].

### **Al-Maliki Doctrine and Administrative Jobs**

**Responding To Public Criticism:** One of the most prominent administrative jobs of the Maliki jurists was administering the government response to public complaints and criticisms. It is worth noting that the caliphs and princes were keen to directly manage and

respond to public complaints and criticisms, however, this did not prevent the assignment of this task to some Maliki jurists [23].

**The Judiciary And Imprisonment (Ahbas):** Maliki jurists were appointed in many administrative positions in Andalusia and the Maghreb among them the judiciary as it was the most important institution. Since the judiciary is based on religious rulings; it was modelled after the Maliki School. Jurists were Malikis and through the judiciary they played an important role in the state [24]. Maliki jurists were entrusted with managing inheritance and everything related to the money of orphans as it was a legal duty [25]. Additionally, the task of al-Shurta al-Sughra (local police) guardianship was assigned to a Maliki jurist [26].

**The Guardianship (Wilayah) To Cities And Thughur (Frontier Ports):** Maliki jurists played a role in both the religious and public administrations. Maliki jurists rose to prominence within the dawlah such as the judge Al-Faraj ibn Kinayah who was appointed by Hakam bin Hisham to mandate the Surqusta (Zaragoza); he proved effective in controlling the situation and suppressing the disturbances and as a result he was praised by Prince Hakam bin Hisham [27]. Another example is Abdullah ibn Yahya who was a Maliki jurist renowned for his good management of the al-Thughur (frontier ports) [28].

**Document Control, Scribes and Cultural Affairs:** The writing of contracts, its documentation and the control of official documents had a significant importance in Andalusia and Maghreb, especially with the increase of the administrative requirement in the Islamic state and the expansion of its economy. Such expansion emphasized the importance of the person in charge of documentation [29].

Among those who rose to prominence in this area are:

- Ahmed ibn Baqi: The imam of jurisprudence and judge, from Cordoba, died in (324AH) [30].
- Nader ibn Salamah Al-Kilabi: He is an Andalusian Narrator and a judge, the year of his death is not known [31].

Maliki jurists worked as scribes, documented transactions and acted as scholars who composed written works in history and other sciences [32].

An in-depth analysis of most of the reported historical documents regarding Maliki jurists and the role they exerted in Andalusia especially in its hey-day, indicates several meanings, such as the nature of administrative work and economic approach that had prevailed, the selection mechanism followed by the caliphs and princes for selecting the administrative staff and it shows the full-control of the Maliki doctrine on most aspects of life in Andalusia and Maghreb.

However, the most striking feature was the development and continuous rise in of Maliki jurists in the state's official administration and various mechanisms, which showed that Maliki jurists were not confined to religious duties but actively participated in the running of the state.

## CONCLUSION

The issues discussed above clarify the role of Maliki jurists in running the administrative and economic life of the Maghreb and Andalusia. The benefits of this research can be summarized as follows:

The caliphs and princes of the Maghreb and Andalusia selected Maliki jurists to occupy public positions because the caliphs and princes adhered to the Maliki doctrine, which moved to Maghreb and Andalusia as a result of political, social and scientific circumstances.

Maliki jurists applied the Maliki doctrinal vision in the administrative and economic jobs they were assigned to even if it was against their own opinions and reasoning.

In the later period of Islamic Andalusia, the influence of the Maliki declined along with the political authority of the Umayyads. This was due to the rapidly changing social and political landscape.

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