



The Approaches of Fatwa-Making in ash-Shinqiti School

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Abstract

This study explores the history of ash-Shinqeeti nawazils and jurisprudence, revealing the remarkable diversity and richness in their references, sources, phrasings, and content. The school's preferences and output are characterized by a broad spectrum of ideas, firmly grounded in the established traditions of the Maliki and Qasemi approaches, thus resisting deviations from these frameworks. Diversity in ash-Shinqeeti's fatwa-making is influenced by various factors, with the choice of approaches being paramount. The Moroccan approach, owing to its geographical proximity, social influence, and spiritual connections, significantly enhances authors' knowledge and contributions. Simultaneously, the Egyptian approach exerts considerable influence on ash-Shinqeeti's jurisprudence and knowledge, particularly through the Egyptian Maliki school, which has shaped authors and their publications. Notably, Khalil al-Jondi's "Mokhtasar," a comprehensive Maliki jurisprudential treatise, and "Alfiyyah," focusing on syntax, are prominent works. Moreover, the Andalusian approach, building upon the Moroccan foundation, further enriches the field of jurisprudence. The amalgamation of diverse approaches and sources results in an inclusive language within the realm of fatwa-making. This research explores additional aspects within this context, contributing to our understanding of ash-Shinqeeti jurisprudence.

Keywords: Approaches, Fatwa, Jurisprudence, Ash-Shinqeeti School.

Introduction

Having observed the legislative judgements that regulate different aspects of life in a Muslim society, one can realize how inclusive the divine message is and how credible it is in every time and place. Those judgements maintain harmony between the government system, judiciary institutions and coercive authority (which consider the phenomena), and the religious and fatwa system (which is established based on conformity and avoidance, where the haven is desired and hell is feared). Therefore, fatwa (Arabic: فتوى) has been of particular importance in Islamic legislation. Conditions and regulations have been set for fatwa so it can perform the desired role, which is to apply Sharia texts to the changing circumstances experienced by an individual and group. It can be noticed that, when making fatwas, several issues are taken into consideration. Some of these issues have to do with the problem and solution, some consider the purposes and priorities of legislation, some consider the conventions and benefits, etc.

Ash-Shanaqitah considered those rules and regulations when making practical fatwas. In doing so, they made use of the tools of Maliki school, which can be used to pass a legislative judgement and to apply it to reality. Using those tools, they also outlined the jurisprudential and juristic aspects of religion. They were influenced by a number of approaches which contributed to give a special, inclusive form to their legislations. As a result, they created an integrated example of fatwa-making. However, how can this fatwa-making be clarified? What are its general features? To what extent do these approaches have influenced their fatwa-making?

In the current chaotic juristic sphere, and due to the catastrophes that occurred in the Islamic world in general and in the Arab world in particular, it has become inevitable to reconsider the resulting Islamic laws and fatwas. Moreover, these aspects have to be studied deeply so as to address the existing problem and to solve the issues that arose in the contemporary Muslim's life. It is necessary to note the qualifications of a mufti [Islamic jurist], who is on behalf of all-powerful Allah and shows the serious hereafter recompense to the Muslim. Furthermore, it is necessary to regulate the Sharia provisions according to a specific juristic-jurisprudential method.

A mufti, however, is not qualified to make a decision on the judgements that have to do with transactions, personal affairs and the other judgements that have been included in an Islamic-jurisprudence-borrowed legislation. Therefore, a jurisdiction should be dedicated to make judgements on conflicts and to force all the parties, as it represents the repressing recompense of the world. The intervention of the qualifications of the two systems has the major role in causing chaos in this contemporary period.

Moreover, it is necessary to determine the mechanisms by which legislative provisions are questioned and the degree to which these provisions are valid. In fact, jurisprudence has to maintain harmony between the benefits and drawbacks and to explicate the priorities, necessities, benefits and other aspects upon which the legislative judgements are based.

Ash-Shanaqitah scholars have made a great effort to consider the practical aspect and enrich the significations of provisions, in which case the legislator can reach the benefits and avoid the drawbacks and thus achieve the desired purposes. Those scholars have been influenced by such different schools as the Maliki school and the Iraqi, Egyptian, Andalusian and Moroccan schools. The present research aims to discover part of the effort made by those scholars. To this end, the approaches used by those scholars will be elaborated on.

The literal definition of fatwa.

The scholar would have made a fatwa once he passes the judgement. The plural form of the word is fatwas, where *s* is added to the original form of the word. Ibn Mandour¹ has pointed out that *fitia* and *fatwa* are made by a jurist. When we say 'he made the problem fatwa for him,' we mean that he made the problem clear and obvious for him. As other examples, we say 'the man made a fatwa (gave his opinion) about the problem, I asked for his fatwa (opinion) and so he gave a fatwa.' *Fitia* and *fatwa* are two nouns which

¹ Ibn Mandour, *Lisan al-Arab* 20, page 15, items *f*, *t* and *w*.

can be used in relation to giving an opinion. As an instance, 'I gave my fatwa to the dream of an individual' means I interpreted it for him. Moreover, 'I gave him a fatwa about a problem' means I addressed that problem. Or, 'He made a fatwa for a group, so they also made a fatwa'² means they participated in making fatwa. *Fitia* means clarifying the problem and explaining the vagueness of judgements. For example, 'The mufti made a fatwa' means he explained a judgement made by Allah about a certain problem. All-powerful Allah says: They ask you 'for a ruling, O Prophet'. Say, "Allah gives you a ruling regarding those who die without children or parents."³

The terminological definition of fatwa.

Al-Hattab defined fatwa as "Announcement of a legislative judgement non-mandatorily.⁴ The term *non-mandatorily* is an adverb implying that a fatwa is basically not mandatory. However, fatwa may be mandatory in religion, but not publically mandatory, as is the case with a judge's judgement." Furthermore, other scholars have defined this term as "Announcement of all-powerful Allah's ruling on occurrences with Sharia evidence."⁵

Scholars are found to have used the terms *events*, *replies* and *problems*, which are the synonyms of fatwas. For instance, they purported 'Ibn Rushd's problems,' 'Ibn Taymiyyah's fatwas,' 'az-Zyati's events' and 'Abdul Qadir al-Fasi's replies.' Therefore, the term *events* refers to the occurrences that happen in people's everyday lives, whether these occurrences are real and have to do with living and life relations or they are religious and have

² Ibn Mandour, *Lisan al-Arab*, Volume 15, p. 148; al-Firuz Abadi, *Majd ad-Din Abu Tahir Mohammed bin Yaqaub* (passed away in 817 AH).

³ Surah an-Nisa, from Verse 176, translated by Dr. Mustafa Khattab, the Clear Quran.

⁴ Ar-Ro'aini, Shams ed-Din Abu Abdullah bin Mohammed bin Mohammed bin Abdor-Rahman al-Tarabolsi al-Maghrebi, known as al-Hattab al-Maliki (passed away in 954 AH); *Mawahib al-Jalil fi Sharh Mokhtasar Khalil*, Dar al-Fikr, third edition, 1412 AH (1992).

⁵ An-Nemiri, Abu Abdullah Ahmad bin Hamdan bin Shebib bin Hamdan al-Harrani al-Hanbali (passed away in 695 AH), *Sifat al-Fatwa val Mufti val Mustafti*, edited by Mohammed Nasir ad-Din al-Albani, published by al-Maktab al-Islami-Beirut, third edition, 1397 AH, p. 4.

to do with observances. In the latter case, those having learned the legislative knowledge from Allah are required to make fatwas in such a way that suits the balanced Islamic Sharia.

The risk of fatwa-making

Islam has indeed taken into account the risk of fatwa-making and considered a hereafter recompense for those who make fatwas. In other words, a mufti works as the translator of all-powerful Allah. For the risk and sensitivity that this position has, Sharia provisions have warned those who are not qualified from getting involved in this position.

Referring to the saying of Muslim ibn Yasar, Abu Dawood argued that I heard Aba Hurara (may Allah be pleased with him) saying: "Allah's prophet (may Allah's blessing and peace be upon him) said he who deliberately lied to me, so let him expect a home in the Hell, he who made a fatwa without knowledge will carry the sin of the follower of that fatwa, and he who blamed his brother for something wrong done by another, he shall be considered to have betrayed his brother."⁶ Ibn Hajar also argued: "Fatwa is the true and main point and he who gets involved in it without knowledge shall be blamed."⁷

Hence, fatwa has been given particular import by jurists, for example Nawawi⁸ argues: "I know fatwa-making has much risk, great

⁶ Al-Bokhari, Mohammed bin Isma'il bin Ibrahim bin al-Moghairah Abu Abdullah (256 AH), *al-Adab al-Mofarrad bil Taliqat*, written according to the commend of Allameh (expert) al-Shaikh al-Mohaddeth: Mohammed Nasir ad-Din al-Albani, al-Ma'arif Library for Publication and Distribution, edited by Samir bin Amin al-Zuhairi, first edition, 1419 AH (1998); and *al-Hadith Hasan*, 101, No. 259.

⁷ Ibn Qayyem al-Joziah, Mohammed bin Abi Bakr bin Ayoub bin Sa'ad Shams ed-Din (passed away in 751), *al-Mowaq' in an Rab al-Alamin Media*, edited by Mohammed Abdul Salam Ibrahim, Dar al-Kotob al-Ilmiyah, Beirut, first edition, 1411 (1991), Volume 1, pp. 37-38.

⁸ Yahya bin Sharaf bin Mari bin Hasan al-Nawawi, preferably known as Abu Zakarria Mohi ad-Din (631-676 AH), is from Nawa, one of the villages of Huran, South of Syria. He is an expert in ash-Shafi'i fiqh, prophetic speech and language. Among his works are *al-Majmu' Sharh al-Mazhab* (incomplete), *Rawdat al-Talebin*, and *al-Minhaj Sharh Saheeh Muslim bin al-Hajjaj*. See: *Tabaqat ash-Shafeiyya lil Sabki*, edited by Dr. al-Hafid Abdul Halim Khan, Alam al-Kotob, Beirut, first edition, 1407 AH, Volume 5 / 165; Zarkali Media, Dar al-Ilm lil Malayin, 15th edition, 2002, Volume 9 / 185.

position and much value as the mufti follows the path of prophets (may Allah's blessings and peace be upon them). Moreover, the mufti performs the collective duty (fard al-Kifaya) but he is nevertheless not required to perform this duty. For this reason, it has been argued that the mufti takes up the position of all-powerful Allah."⁹

Ash-Shatebi (790 AH) adds: "In society, the mufti takes up the position of the prophet (may Allah's blessing and peace be upon him). One reason is that a mufti transfers Sharia. Take the saying "scholars are indeed the carriers of prophets' legacy." Prophets left no money but only knowledge..."¹⁰ Ash-Shatebi continues: "Another reason is that the mufti is on the one hand a legislator. This is because what he argues from Sharia is either transferred from the main source of Sharia or it has been inferred from something already been transferred. In the first case, the mufti takes the role of advisor and in the second case, he himself passes the judgements and passing of judgements is done by the legislator. Therefore, a mujtahid (a clergyman practicing religious jurisprudence), who can pass judgements according to his viewpoint and effort, shall be from this angle regarded as a legislator and thus must be followed and his words shall be performed. This implies that he takes up the prophet's position."¹¹

The purpose of ash-Shinqeeti School

Ash-Shinqeeti School is a name borrowed from the historical city, Shinqeet. It is currently located in North Mauritania. The city was established in the 2nd century (AH) and since then it has been the assembly point of Hajjes coming from West Africa in general and Mauritania in particular. Broadly speaking, over the centuries, this city has been an important hub of knowledge and civilization in West Africa. This city

⁹-Nawawi, Abu Zakaria Mohi ad-Din, *Adab al-Fatwa va al-Mufti va al-Mustafti*, edited by Bassam Abdul Vahab aj-Jabi, Dar al-Fikr, Damascus, first edition, 1408 AH, Volume 1, p. 14.

¹⁰-Ash-Shatebi Ibrahim bin Musa bin Mohammed al-Lakhmi al-Ghirnati (790 AH), *al-Movafaqat*, edited by Abu Obaideh, known as bin Hasan Al Salman, published by Dar ibn Affan, first edition, 1417 AH (1997), Volume 5, p. 253.

¹¹-Ibid. p. 255-256.

distinguished Mauritanian people in general and Mauritanian scholars in particular. This is because Shinqet played an important role in serving science and civilization in the Islamic World. In other words, this city has been the civilization point linking the East to the West, on the one hand, and linking the Arab Morocco to Western Africa, on the other hand. Some researchers believe the name Shinqet has been borrowed from Berbers and Sinhajes, meaning *the horse eyes*. Others, however, argue that this name has an Arabic origin, meaning 'side of Qeet.' Qeet is a neighboring mountain.¹²

This city has been distinguished by the services offered by its scholars in the Maliki Branch. They surveyed different books of this Branch and, accordingly, wrote down descriptions and notes, and regulated the rules and pieces of evidence that cannot be counted. Among the most dominant books on Maliki jurisprudence is the brief work of Khalil bin Ishaq. This brief work, which covered the fatwas included in Maliki Branch, has been a constitution regulating people's observances and transactions in this country.

Furthermore, the ash-Shinqeeti School broadly includes several Schools, where its branch is Maliki, its beliefs are Ash'ari, and its approach is Jandi. Any of these Schools incorporates scholars with extensive understanding and with expertise in all fields of Islamic knowledge. Most of this legacy is still exclusive in private libraries.

A look at fatwa regulations among Maliki scholars:

Contemporary scholars not only have been concerned with this issue, but also published pure publications on the regulations of fatwa-making and mufti. Among such publications are *the Literature of Mufti and Mustafti* [target], authored by Abi al-Qasim Abdul Wahid bin al-Husain bin Mohammed al-Qadhi as-Samiri (386 AH); *the Jurist and the Target*, authored by al-Khatib al-Baghdadi;¹³ and *the Literature of Mufti and Mustafti* by Ibn as-

¹²-Dr. Hammah Allah Walad al-Salem, Mauritania in the Arab Memory, al-Wahda al-Arabia Research Center, first edition, Beirut, June, 2005, see footnote 4.

¹³-al-Khatib al-Baghdadi (392 – 463 AH) is actually named Ahmad bin Ali bin Thabet, Abu Baker, but known as al-Khatib al-Baghdadi. Born and passed away in Baghdad,

Salah.¹⁴ The two aforesaid scholars are dedicated to the Shafi'i Branch. Regarding the Maliki scholars, however, only two books have been known to be authored by them: *Guidance to Fatwa Principles and Regulations of Fatwa-making*, authored by Qani;¹⁵ and *the Principles of Fatwa-making in Fiqh according to imam Malik*, authored by Ibn Hareth al-Khashni. The latter book pivots around the branches of jurisprudence, not the principles, literature and rules of fatwa-making, as the title may incorrectly suggest.¹⁶

The genius al-Ghalawi ash-Shinqeeti,¹⁷ in his work *Bu Talihyyah in the Books and Fatwas of the Maliki Branch*,¹⁸ has somehow scrutinized and explicated the problems related to fatwa-making and deduction. He has discussed the credibility of fatwas that refer to conventions and customs,

he was among the famous historians. His religious branch was Hanbali but then became Shafi'i. He had been to Basra, Nishabur, Isfahan, Hamedan, Sham and Hijaz. He was named al-khatib because he offered speeches according to the Reyhan approach. He learned jurisprudence from Ali Abi Talib al-Tabari and other people who were familiar to Shaikh Abi Hamed al-Israfili. He also learned jurisprudence from al-Qadi Abi Abdullah al-Qada'i. Abu Baker al-Barqani, Abu al-Qasim al-Azhari, among others, who were his Sheikhs. Among his works are *the History of Baghdad*, *Sufficiency in the Novel-Related Knowledge*, and *the Selected Benefits*. See: Sabki's *Shafi'i Levels*, ibid, Volume 3, p. 12; and *the Beginning and Finish* by Ibn kaseer, Dar al-Fikr, 1986, Volume 12, p. 101; and *Fragments of Gold*, edited by Orna'ut, Dar Ibn Kaseer, first edition, 1406 AH (1986), Volume 3, p. 31.

¹⁴-Ibn as-Salah (577 – 643 AH) is actually named Othman bin Abdur-Rahman bin Musa Taqi ad-Din Abu Amro, known as Ibn as-Salah. He is originally Kurdish from Shahr Zour, a wide area in the mountain between Arbil and Hamedan. All the residents of this area are Kurdish. He is among the Shafi'i imams and specialized in jurisprudence, prophetic speech and the related fields of knowledge. He had good knowledge in interpretation, jurisprudence and syntax. He first learned jurisprudence from his father, as-Salah, then went to Mosul and came back to Sham and studied in different schools. Among his works are *Moshkel al-Wasit*, *Fatwas*, *the Speech Knowledge*, which has been authored with an introduction from Ibn as-Salah. See: *Fragments of Gold*, Volume 5 / 221; *Shafi'i Levels* by Ibn Hidaya, p. 84; *Mojam al-Mo'allefin*, 8 / 257.

¹⁵-*Guidance to Fatwa Principles and Regulations of Fatwa-making* is authored by Ibrahim al-Qani (1040 AH). The book has been published by the Kingdom of Morocco, the Ministry of Endowments and Islamic Affairs, presented and edited by Dr. Abdullah al-Hilali.

¹⁶-See: The introduction of *Guidance to Fatwa Principles and Regulations of Fatwa-making* in the Maliki Branch, Ibrahim al-Qani, (1041), presented and edited by Dr. Abdullah al-Hilali, published in Kingdom of Morocco by the Ministry of Endowments and Islamic Affairs, 1423 AH (2002), p. 3.

¹⁷-Already discussed

¹⁸-The book, as well as the author and editor of the book have been discussed.

and that some of which are premised upon the rule 'avoid drawbacks and accrue benefits.'

Given that we are dealing with the ash-Shinqeeti collection on fatwa-making, we have to point out the legislative reasoning they adopted in making fatwas. This should be done so that it becomes clear-cut what method they used to study the legislative provisions and to uncover the hidden aspects of those provisions. It should be noted that this reasoning is not specific to a single school, but rather it is a general reasoning used in the Branch to make fatwas. That is, the Maliki Branch is based on different jurisprudential rules and inferential sources, some of which are also used in other Branches. Such sources include the Qur'an, consensus and analogy, among others. Upon some other rules and sources, the Maliki Branch partly or entirely disagrees with other Branches, to the point that it may have separate rules and sources. As a result, and considering the nature and purpose of the reasoning used in this Branch, Maliki muftis are allowed to give their own opinions in response to the new phenomena and events. In other words, those rules and reasoning brought about more flexibility in applying the provisions on reality. Moreover, as a result of this, the principle of 'accuracy' can be applied to any time and place, where a fatwa may change when circumstances and time change. The fatwas made by Maliki scholars are various.¹⁹

Making use of Maliki Branch's flexible rules, ash-Shanaqitah formulated fatwas that seem to be deductive. Among the most important principles adopted by them in making fatwas are perhaps the following: First section: the principle of *working on the prevention of means*, this Principle is adopted by Malik (may Allah be pleased with him) and expanded by his students. This Principle is summarized by well-known juristic rules such as "dealing against the intended purpose, which implies a taboo, is a taboo." Al-Gharafi adopted the literal meaning of the term *means*, where he finds them to necessarily imply *tools*. He argues: "I know a means may be abominated or permissible, since a *means* is a tool that may be taboo or, as is

¹⁹-The Disagreements among Ash-Shanaqitah: Fiqh and Jurisprudence as a Model, PhD thesis presented by the student researcher, Ahmad al-Afram Saidi Al, pp. 42-43.

the case with Hajj, is mandatory.”²⁰ Let us consider some of the rules related to the prevention of means, on which Maliki and some ash-Shanaqitah scholars were focused. Among such rules is that they prohibited the commodities that may be taboo; another rule is that something generally beneficial is permissible, etc.

Ash-Shanaqitah made it obligatory for the people in neighborhoods to conform to this principle. They considered this Principle to be about avoiding the drawbacks accompanied by this system. He infers this fact from their fatwas. Take the argument of Mohammed bin al-Habib bin Eid al-Amin al-Jakani, as only one example: “As soon as compromise is not due, invasions become due. Hence, everything or the most important things destroy, as can be seen very easily.”²¹ Going along with al-Jakani, Sheikh Mohammed al-Mami argues: “Compromise is indeed needed.”²²

Second section: The Principle of *considering the determined benefits*, this Principle is known as ‘reformation.’ Jurists define this term as follows: Enforcing a judgement for an occurrence on which there is no provision or consensus. Instead, the judgement considers the determined or absolute benefit. The judge has no reason for whether to accept or ignore this benefit. As a result, reformation is considered among the most difficult ways for passing a legislation because there is no provision about it. In other words, any benefit considered by the legislator is permissible, no matter what the benefit is.

The fact that ash-Shanaqitah scholars consider the benefits made

²⁰-See: Al-Gharafi, Shahab od-Din Ahmad bin Idris, *Anwar al-Boroq fi Anwa’ al-Foroq*, edited by Mohammed Ahmad Seraj and Ali Jom’a Mohammed, Cairo: Dar as-Salam, 2001, Volume 2, p. 33. Jurists have later shown the means leading to avoidance of drawbacks and those leading to gaining benefits.

²¹-Yahia Walad al-Barra’, the Major Collection of Fatwas, Events and Judgements of Western and South Western People of the Desert: A Collection of 6800 Events and Judgements, first edition, 1430 AH (2009), published by al-Sharif Mowlay al-Hasan bin al-Mokhtar al-Hasan, Anwakshoot, Mauritania, Volume 10, p. 4779.

²²-Sheikh Mohammed al-Mami bin al-Bukhari, *Risalah fi Zakat Mal al-Niza’*, printed as one of his publications, Zawia al-Sheikh Mohammed al-Mami Banwakshoot Publication, pp. 340-341.

them disagree to allow the claiming of a different viewpoint. In other words, the majority of ash-Shanaqitah scholars agree to give credit to the well-known sayings of the Branch, and to prohibit what opposes them, unless there is a necessity to do so.

Consequently, many of them narrowed the muftis' scope, so they are less able to consider the abnormal benefits. In this respect, Saidi Abdullah bin Haj Ibrahim purports: "A judge not considering what is known has made an abnormal judgement. If he passes a judgement according to what is known, his judgement shall be due. However, if he makes a judgment that he knows it is abnormal and yet he finds it preferable, his judgement shall still be due. The latter case is true only if has good understanding and perceives what is more preferred."

In another text, he points out that society is empty of individuals with such a qualification: "He whose understanding and awareness are confirmed can judge according to what is not well-known. Yet the judges of our time lack this characteristic. Rather, many of them have no familiarity with the provision and judge according to their estimation and guessing."²³

Nonetheless, judges deviate from what is known because of a number of factors. This contradiction between theory and practice is perhaps attributed to the fact that they perceive themselves to be able to prefer what is appropriate for that certain circumstance. Yet they believe others lack the mechanisms by which to recognize what is preferred. In this regard, Imam al-Mazari argues: "I am not among those who encourage people to perform what is not well-known in the Branch of Maliki and his companions. This is because piety has decreased, or is about to come to an end, and so has conservation towards religions. Instead, cravings have increased and more people claim to have knowledge and deviate from fatwas. Therefore, should they be able to make violations, they would breach so frequently and disregard the sovereignty of religions, which are obviously wrong deeds."²⁴

²³-Ibid.

²⁴-Al-Shatebi, al-Movafaqat, edited by Abu Obaidah known as bin Hasan Al Salman, Dar bin Affan, first edition, 1417 AH, Volume 1, p. 100-101; and Miar al-Maghrib val Winsherisi, Ahmad bin Yahia, al-Gami' al-Mo'arrab an Fatawi Ahl Africa val Andolus val

In this respect, Sheikh Mohammad al-Mami²⁵ argues: “Is it possible for the Prince not to be preferred? Or is it possible for the elite, namely for Sheikh Mokhtar al-Kinti and his son, Khalifeh Sheikh Saidi Mohammad or Ahmad bin al-Aqel not to be preferred? It seems to me that they worked on preventing the means, as implied by the jurist Saidi al-Mokhtar bin al-Taleb (1305 AH) in relation to defaming the argument of ibn al-Qasim about other arguments in the Branch. He points out: “...considering the work in this society according to the argument of ibn al-Qasim who considers the work such as our Sheikh, Saidi Abdullah al-Alawi (may Allah sanctify his soul and enlighten his shrine), Abdullah bin al-Twelib, al-Salik bin Ammar, and al-Talib bin Hankoosh. Moreover, the work has nothing to do with his defaming or preference, as we pointed out in relation to their Approaches.”²⁶ Other practices were also done which oppose what is known in the Maliki Branch. They were done because they were beneficial and needed.

Ash-Shanaqitah fatwas made use of other benefits, which are as follows:

1. Secret marriage: It is well-known in the Maliki Branch that an

Maghrib, authored by a number of jurists, supervised by Dr. Mohammad Haji, and published by the Ministry of Endowments and Islamic Affairs, Kingdom of Morocco, 1401 AH (1981), Volume 6, p. 327.

²⁵-Sheikh Mohammad al-Mami bin al-Bukhari bin Habib Allah bin Barkel bin Ahmad Bazid (1282 AH: 1865) was a Ghaderi mystic, jurist and poet. He was educated by his guardians and then in Qiblah. No eminent Sheikhs are known to have taught him. He is known to be self-educated, where he gained knowledge through studying and journeys. Sheikh Mohammad established a school in Tirs, an area located in the North of Mauritania, from which generations of scholars were graduated. He demanded that limits be considered, a great imam be designated, and deduction be included. He has more than 200 publications in different sciences. The following are some examples: “Kitab al-Badiah,” “Jaman al-Badiah,” “Al-Dolfinah,” “Nadm al-kharaj fi Ashra Alaf Bait,” “Nidam fi Tafsir al-Qur’an Aqad bih ibn Jazi,” “Al-Miftah fi Mustalah al-Hadith,” “Al-Bayan val Osul,” “Zahr al-Riyadh az-Zarqiah fi Aqd Ahkam al-Mawardiah,” “Ighra’ al-Dawal val Himal Ala al-Roku’ fi Hiadh al-Amal” (in the latter book, he responds to Saidi Abdullah bin Haj Ibrahim in his book Tard al-Dawal val himal an al-Koru’ fi Hyadh al-Amal), “Diwan Shi’r Fasih va Ami, the Great Collection, Volume 2 / al-Tarajom, p. 137.”

²⁶-Saidi al-Mokhtar bin al-Talib, Hokm fi Niza’ ala al-Nakhil, Makhtoot, Ahl al-Talib bin Hankoosh Library, Kanash, works of Saidi al-Mokhtar bin al-Talib, Volume 1.

individual who is asked to keep silent about a marriage shall not be permitted to squeal that marriage. In case it is not too late, the marriage shall dissociate.²⁷ Nevertheless, Siadi Abdullah bin Haj Ibrahim ash-Shinqeeti opposed this argument and considered the necessity of the reverse case. He points out: "The weak who uncovers its truth has done a correct deed, provided that the weak meets several conditions, among which is that a severe necessity is present. It shall not be enough to consider the will of generation, but rather sin or body disease shall be considered."²⁸

2. Confirmation of lactation in one single woman: In the Branch, it is well-known that lactation in a woman cannot be confirmed. In his *Mokhtasar*, Khalil points out: "Not in a woman even if spreads."²⁹ In response to this statement, Abdullah mentions several preferences (e.g. benefit) arguing: "Obviously, she is a single witness. Even if some prefer the former (confirm this in one woman) and consider the benefit aspect, the majority remain to prefer the weak. Assuming we do not confirm lactation unless two women admit so, in this case many lactating women would marry their prohibited figures as they could easily admit the reverse. Despite this, many women are not able to admit before they ask for marriage."³⁰

3. The following are some attempts made by Sheikh Mohammad al-Mami ash-Shinqeeti in relation to the basic *nawazils* (events). He borrowed these events from Sharia provisions and purposes and, in studying them, adopted the feasibility and ease Principle:

Sheikh Mohammad al-Mami permitted the renting of milk to the public, arguing: "Undoubtedly, renting the milk is in essence forbidden and is somehow usury, in the sense that delayed payment does not occur, as Malik points out. On the other hand, usury is forbidden. Usury, which is narrower than selling something forbidden, was made permissible for all Muslims, because of its necessity in the era of the Prophet (may Allah's

²⁷-Ibn Ishaq al-Jondi Khalil, *Mokhtasar Khalil*, edited by Ahmad Jad, Dar al-Hadith, Cairo, first edition, 1426 AH (2005), p. 98.

²⁸-Ibn Haj Ibrahim Saidi Abdullah, *al-Fatawi*, gathered and edited by Mohammed al-Amin bin Mohammad Beeb, United Arab Emirates, first edition, 1423 AH (2002), p. 26.

²⁹-*Ibid.*, p. 267.

³⁰-*Ibid.*, p. 187.

blessing and peace be upon him). Usury was made permissible in six areas: Debt, loan, nudity, share, commission and partnership. Accordingly, scholars made comparisons with issues related to usury and permitted them in case of public necessity." He added: "Third, something open to controversy shall be permitted. All these are made permissible according to the permissions given in the era of the Prophet (may Allah's blessing and peace be upon him), as Winsherisi pointed out. In this respect, the following poetic lines were made:

*Based on the comparison made with permissions, It was concluded that they are free of harm, Such as debt, loan, nudity, Share, commission and partnership."*³¹

He reasons that something necessary is beneficial and shall be done: "Something necessary is beneficial, even if breaches the rules." Moreover, al-Gharafi purports: "Necessary benefits such as spending on human being take precedence over personal benefits such as spending on the wife, and the latter benefits take precedence over complementary benefits such as spending on one's relatives. Furthermore, hardship is beneficial even if breaches the rules. The aforesaid points are necessary and shall be considered in giving permissions."³² Concluding his stance on the problem, he argues: "The benefit that differs from one situation to another, and from time to time, requires fatwas to determine what is permitted and what is demanded according to the benefit."³³

The Maliki approach to developing deduction methods according to the personal need:

In al-Movafaqat, ash-Shatebi traced the Principle related to this concept and, in so doing, considered the juristic framework of the concept:

³¹-Sheikh Mohammad al-Mami, the book al-Badiah and other texts by Sheikh Mohammad al-Mami, edited by the Scientific Committee for Sheikh Mohammad al-Mami, Nwakshoot, Publications by the Center for Saharan Studies, Rabat, Dar Abi Raqaq for Printing and Distribution, Rabat, p. 251.

³²-Al-Gharafi, al-Dhakhira, edited by Mohammad Haji, Said A'rab and Mohammad Bukhobzeh, Dar al-Gharb al-Islami, Beirut, first edition, 1994, 5 / 224, and al-Badiah, p. 251.

³³-Al-Badiah, p. 202.

“This principle is based on the favorability rule which, as defined in the Maliki Branch, is about considering the partial benefit to infer the complete reason. To this end, the available reasoning shall take precedence over the analogy. Therefore, he who prefers something does not refer to his taste and desire alone. Rather, he refers to what he perceives from the legislator’s statement in relation to such imposed issues. Among such issues are those which require a comparison. However, such issues cause the benefit not to be regarded but may accrue drawbacks. In many cases, the necessary aspect agrees with the personal aspect and the latter agrees with the complementary aspect. Therefore, the comparison shall be absolute in relation to the necessary, which in some cases leads to difficulty and hardship. Thus, that difficulty shall be exempted, and so shall the personal aspect in relation to the complementary, or the necessary in relation to the complementary, which is the appearance.”³⁴

In the text above, ash-Shatebi provides that favorability is permitted. One form of favorability concerns the exemption of a partial problem from the general problem for a legislative purpose. He also permitted the contracts that are accompanied by great danger, provided that they have a benefit that is harmonious with Maliki principles. To discover this harmony, it should be considered what benefit is gained. This benefit in turn is about achieving the purpose of legislator, which is to gain a legislative benefit. Out of this Principle, Maliki scholars made favorability forms that consider the personal and public aspects, including:

- a. Favorability according to a necessity (the juristic need): This form stipulates that something required for satisfying a need or easing a difficulty shall be done. One example concerns the use of impure water from pits, because there is no way to clean the water by pouring it on the pit. Nevertheless, this would ease the difficulty and, in case of necessity, doing so shall be permitted. Therefore, the text was left as is.³⁵

³⁴-Al-Shatebi, *al-Movafaqat*, Volume 5, p. 194.

³⁵-Qotb ar-Raisooni, *al-Taisir al-Fiqhi: Mashro’iateh va ZavabeteH va Ava’edeh*, Beirut, Dar Ibn Hazm, 2007, first edition, p. 41.

- b. Favorability according to a benefit: This form has been included in Maliki books and means that exempting part of a judgement or rule is done when there is a benefit by which a need can be satisfied or ease can be brought about. One example concerns payment to a partner even if makes no contribution.³⁶

Ash-Shatebi went on to consider satisfaction of a need to be among the benefits, since it helps strengthen the relationship between two persons. Ash-Shatebi says: "Malik denied the saying on the pots by which the camel and sheep meat was cooked before taking an oath. This was done according to the satisfaction of need Principle, which concerns the benefits. Therefore, for someone in need of food, eating may occur before taking an oath, as ibn al-Arabi purports."³⁷

This Principle takes into account the behavior of people in a city as a source of judgement. Assume that a habit is commonplace among people but they have no understanding about the origin of that behavior and yet that behavior is not provided in a text. In such a case, according to this Principle, a legislation shall be passed for the behavior. This Principle has been frequently adopted by Maliki scholars and has been summarized in juristic rules such as 'a habit is a court,' 'the convention is the judge,' 'what people regard as appropriate is also regarded as appropriate by Allah,' 'what is known conventionally is like a mandatory condition,' etc.

To conclude the stance taken by ash-Shanaqitah in relation to conventions and customs, we put forth a short fatwa that was made by one of the most eminent scholars of *events* in Shinqet. He does not go beyond the religious framework of this problem. This fatwa is as follows:

"Al-Casree bin Mohammad bin al-Mokhtar bin Othman al-Idelbi³⁸

³⁶-Ibid., p. 42.

³⁷-ash-Shatebi, *al-Movafaqat*, Volume 3, p. 198; Ibn al-Arabi has mentioned in "*Al-Qabs fi Sharh Motan Malik bin Anas*," Volume 2, pp. 605-606.

³⁸-Al-Casri bin Mohammad bin al-Mokhtar bin Othman bin al-Casri al-Idilbi (1235 AH: 1820) is an eminent nawazili jurist and famous judge. He gained knowledge from al-Talib al-Bashir bin Haj al-Hadi, and benefited many people. He was among the educational elite of his time, as the author of *Manh al-Rab al-Ghafoor* argues. Al-Casri practiced jurisprudence and fatwa-making in Nima city, East of Mauritania. He has publications such

was asked about the following problem: "Imams sometimes behave according to the habit and do not consider the provision on a fatwa or judgement. They argue that sticking to provisions without considering a habit shall be a deviation from the religion." Moreover, all-powerful Allah argues: "order the custom."³⁹ Yet they sometimes behave according to a provision, purporting that a habit cannot be considered if opposed by the text."

In response to this argument, he purports: "There are issues that premise upon convention and habit, such as transactions, testament and faith. All jurisprudential issues that have something in return, such as divorce and emancipation, require that a fatwa be made and a judgement be passed according to a habit. As the habit changes, the fatwa shall change, too. This is not a new deductive rule, but rather scholars have reached a consensus upon this issue. We, that make no deduction, follow those scholars. Moreover, in relation to the problems that do not premise upon a convention, fatwa and judgement shall be made according to a provision or otherwise the judgement and fatwa shall have no credibility. This can be observed in the provisions of our Imams (may Allah be pleased with them) and all-powerful Allah is more aware of this."⁴⁰

There are also other rules in which they relied on conventions and habits and which violate what is known in the Maliki Branch but are beneficial. Such rules include:

1. Considering a more significant indemnity instead of retaliation, in order to release the convicted,' 'orderly dealing with the guests in their houses,' 'partnership with a rancher in the products of milk,' 'purchasing the milk produced by a breast,' 'mixing families' grains and giving each family its share randomly,' 'giving a debt in violation of what is known in the Branch' and 'exploitation of livestock and the fact that a worker receives half of the income and the owner of

as "Fath al-Jalil," "Nawazil Dhakhmah," and "Sharh Bab al-Fara'id min Mokhtasar Khalil." See: Fath al-Shokoor fi marifat Ayan Olama' al-Tekroor, p. 206, the Great Collection, Volume 2, al-Tarajom, p. 176.

³⁹-Surah al-A'araf, Verse 199.

⁴⁰-Works of the Mauritanian Institute for Scientific Research, see the Great Collection, Volume 4, Osul al-Fiqh va Olum al-Quran va Olum al-Hadith, p. 710.

livestock receives the other half.' These are some examples performed by ash-Shanaqitah.⁴¹ Still there are other issues which include:

2. The fatwa regarding the purity of water whose features have changed: Taking into account the jurisprudence, and the ephemeral nature of society and its geographical environment, some ash-Shinqeeti scholars believe that despite the difficulty in protecting water from being changed, this water is useable for observance purposes. Those scholars are often dissatisfied with the stance of Khalil: "A change to the waterwheel is damaging."⁴² They oppose Malik in that he regards such water unclean. Ash-Shinqeeti scholars based their fatwas on one of the juristic rules of his Branch: "What is difficult from being protected." Mohammad bin Abi Baker bin al-Hashem al-Ghalawi (168 AH: 1668) in relation to this nazilah argues: "A change resulting from dung and urine of livestock, if mixed with something unclean, shall all be unclean, as is well-known. Yet such water is said not to become unclean, according to the viewpoint of Badiyah people."⁴³
3. Taking the required oath: In the Branch, there is a well-known argument made by Khalil in Mokhtasar. It says that a Muslim taking an oath has to take an oath about several things: his spouse, something hung on his neck, donating one-third of his money, attending Hajj, expiation for an oath, and fasting for a year. There is a disagreement between the Sheikhs of the Branch.⁴⁴

Nonetheless, ash-Shinqeeti scholars considered the purpose and convention but not the phrasing. One such a scholar is Saidi Abdullah bin Haj Ibrahim, who made a fatwa arguing that someone taking an oath in this way is likely to be knowledgeable. Khalil mentioned that he is not

⁴¹-Fath al-Wahhab, *Ibid.*, Volume 2, p. 166, Mohniz Bab bin Obaid al-Dimani, Maisar al-Jalil, Dar al-Rudwan, bin Hamed Hayat, Mauritania, Volume 3, p. 20, Hayat Mauritania, Volume 2, p. 91.

⁴²-Ibn Isaq Khalil al-Jondi, *Mokhtasar Khalil*, p. 98.

⁴³-Mohammad bin Abi Baker bin Hashim al-Ghalawi, al-Nawazil, one of the set of nawazils by Ambwya Abdul Rahman al-Walati (handwritten).

⁴⁴-Khalil bin Isaq al-Jondi, *Mokhtasar Khalil*, p. 95.

knowledgeable since if he was so, he shall require himself whether in expression or intention. Moreover, lack of knowledge in this area requires a revocable divorce where the intention is considered and it is also required to consider the expression.⁴⁵

Fourth part: Considering the necessities and their priorities through the difference principle.

The difference principle means giving a reason for each of the two arguments.⁴⁶ In the problems upon which there is a disagreement, one of the two arguments shall be considered, even if it is preferred. One example has been given by ash-Shatebi: "The judgement on any improper intercourse is subject to disagreement. In this case, legacy shall be confirmed and divorce cannot be done because this way there would be a need to confirm the lineage."⁴⁷

Therefore, Maliki scholars, through these judgements, showed the correct form of improper intercourse and prohibited relationship. Moreover, this shows the accuracy of judgement as a whole; otherwise it would be fornication. One such example is also the following: If the Imam and his follower genuflect and the latter made the takbir for genuflection forgetting to say the opening takbir, he shall continue with the Imam. This is align with the following reasoning: The genuflection takbir is part of the opening takbir, and that is why those observances shall not be invalid.⁴⁸

Thus, we can perceive the importance of fatwas and nawazils and how they show the secret of jurisprudence. Moreover, if jurisprudence is needed to teach the mujtahid and enable him to theoretically understand and infer, the jurisprudence of nawazils is needed for applied deduction. Among jurists, this type of jurisprudence is known to apply judgements to the time and place appropriately, considering their relativity and changes. This is also an attempt to create harmony between all this and the theoretical outcome that was stipulated in the jurisprudential lessons. Nawazil

⁴⁵-Saidi Abdullah bin Haj Ibrahim, *al-Fatawi*, p. 227.

⁴⁶-Ash-Shatebi, *al-Movafaqat fi Osul al-Sharia*, *Ibid.*, Volume 4, p. 526.

⁴⁷-*Ibid.*

⁴⁸-*Ibid.*, p. 516.

jurisprudence is among the most accurate methods ever.⁴⁹

Fatwa approaches in ash-Shinqeeti school

Scholars into the history of ash-Shinqeeti culture agree that people in North of Morocco play a significant role in ash-Shinqeeti works. Moreover, probing into the history of ash-Shinqeeti works, one will realize that the first academic lessons were provided by a group of Moroccan scholars, the most prominent of whom is Abdullah bin Yasin al-Jazwali⁵⁰ who is regarded as the first teacher of ash-Shanaqitah.⁵¹ Another prominent scholar is the Prince Abu Baker bin Omar⁵² who took with him imam Aba Baker Mohammad ibn al-Hasan al-Hazrami (489 AH) and the jurist, Ibrahim al-Omawi⁵³ while returning to Morocco. Ibrahim al-Omawi was a teacher and judge in the Prince Council. These three scholars primarily distributed the religious culture among the tribes of Mauritania in that era.⁵⁴

The other ash-Shinqeeti scholars being educated by the Moroccan

⁴⁹-Mohammad al-Baraka, *Fiqh al-Nawazil ala al-Madhab al-Maliki (Fatawi Abi Omar al-Fasi)*, gathered and edited by East Africa, 2010, p. 7-8.

⁵⁰-Al-Jazwali, Abdullah bin Yasin: He is named Abu Mohammad Abdullah bin Yasin bin Makzik bin Seir al-Jazwali. He was born in the suburb of Audghust back in the beginning of the fifth century After Hijra. Abdullah was the first leader of religious persons and directed them, as well as he was in charge of guiding them to the truth (451 AH: 1059). Moreover, he was a jurist and guerilla. While returning from Hajj, he was welcomed by Yahia bin Ibrahim al-Kedali in as-Sus area. Abdullah resided in that place, raising people's awareness, ordering them to the accurate and warning them from the enormity. They, however, opposed him and thus he left them with the Prince Yahia bin Ibrahim. He then became stronger and turned into a guerilla, as this was the logic of the state of religious persons. Abdullah was among the Maliki jurists. Ad-Dahabi argues: "He was personally a strong person having his own point of view and consideration." This statement has been included in *Sair Alam al-Nubala'*, edited by a number of editors and supervised by Sheikh Sho'aib al-Arna'ut, al-Risalah Institute, third edition, 1405 AH (1985), 31-80. The judge Ayyad: *Ordering of proofs*, 2 / 64 / al-khalil al-Nahwi, Bilad Shinqeet al-Manarah val Ribat, p. 520.

⁵¹-Bin Hamid al-Mokhtar, *the Cultural Life of Mauritania*, Ibid., Volume 2, p. 3.

⁵²-Prince Abu Baker bin Omar bin Talakakin al-Lamtoni was among the first religious figures who were the companions of Abdullah bin Yasin. He took part in the invitation since the beginning, Ibn al-Khatib, p. 122 and Ibn Abi Zara', p. 128.

⁵³-See: *Bilad Shinqeet al-Manarah val Ribat*, Ibid., p. 34.

⁵⁴-See: *The Cultural Life of Mauritania*, Volume 2, p. 5.

school were ash-Sharif,⁵⁵ who established Tisheet city,⁵⁶ as well as Haj Othman, one of those who established Wadan city.⁵⁷ Both of them were educated by the judge Ayyadh⁵⁸ and represented his knowledge. Therefore, knowledge spread out and broadened through them. Furthermore, we know the first academic lessons in ash-Shinqeeti area were provided by Moroccan people, who continuously shared with this area beneficial advice and scarce knowledge. The Moroccan publications reached the ash-Shinqeeti sphere at an early time and the primary publication was the Risalah by Ibn Abi Zaid al-Qirawani (386 AH). Some estimate that this publication reached the ash-Shinqeeti sphere back in the 9th century AH.⁵⁹

One of the most important Moroccan juristic materials among ash-Shanaqitah is 'The Collection of the Helpful Guide to the Necessary of Religious Fields of Knowledge' by Abdul Qadir bin Asher.⁶⁰ This collection represented the first stage of learning jurisprudence in ash-Shinqeeti schools and was explicated by the genius al-Ghalawi.⁶¹ He named his explanation as "Al-Mobashir ala Ibn al-Asher."⁶² Furthermore, this collection was properly

⁵⁵-ash-Sharif Abdul Mo'men bin Saleh al-Idrisi, who established Shinqit in 536 AH and who was one of the representatives of religion, gained his knowledge from the judge Ayyadh. See: *The Cultural Life of Mauritania*, Volume 2, 6, 198, *Poets of Mauritania*, p. 336, and *al-Manarah val Ribat*, p. 69.

⁵⁶-See: *The Cultural Life of Mauritania*, al-Mokhtar bin Hamid, Volume 2, p. 6. Also see: *An Introduction to Making Nawazils*, Hami Allah al-Tishiti, gathered, edited and presented by Dr. Mohammad al-Mokhtar Walad al-Sa'ad, published in Abu Dhabi, the Judiciary Office, first edition, 1431 AH (2010), p. 14-31.

⁵⁷-*The Cultural Life of Mauritania*, Volume 2, p. 6.

⁵⁸-Ayyadh al-Qadi (476 AH, according to some, and 496 AH, according to others) is actually named Ayyadh bin Musa bin Ayyadh al-Yahsibi as-Sabti Abu al-Fadhil. He was originally from Andalusia but then, after all his antecedents, moved to Fes and then to Sebeta. He was among the prominent figures of Maliki branch and was a conservative, jurist and knowledgeable scholar. Among his publications are "Al-Tanbihat al-Mostanbatah fi Sharh Moshkilat al-Modawana" and "Ash-Shafa fi Hoquq al-Mostafa." See: *Shajarat an-Nur al-Zakiah*, p. 140, *an-Nojum al-Zahirah*, Volume 5, p. 285, *Mojam al-Mo'allegin*, Volume 8, p. 16.

⁵⁹-Al-Khalil al-Nahwi, *Shinqeet al-Manarah val Ribat*, p. 186.

⁶⁰-The collection by the expert, jurist and skillful, Abi Mohammad bin Ahmad bin Ali bin Asher al-Ansari al-Andalusi al-Fasi (1040).

⁶¹-Its translation has been presented by the expert and jurist, Abdullah bin Omar bin Abdat [the genius al-Ghalawi] (1029/1240). His translation has been known as "The explanation of the well-known on a collection that deserves fame."

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explained by bin Bashir al-Ghalawi and his work was named “Mofid al-Ibad.”⁶³

Another book is ‘An-Nihaya val Tamam fi Marifat al-Ahkam lil Metiti.” The book title has been named so according to its author’s name: Abdullah al-Mutati (570). Also consider ‘Shifa’ al-Ghalil fi Hal Moqfal Khalil’ by Ghazi; ‘al-Torar’ by Abi al-Hasan al-Tanji; Nawazil by al-Hilali; ‘Lamiat al-Ziqaq’⁶⁴ which have been given more than 10 explanations by ash-Shanaqitah; ‘al-Miar al-Moarrab va al-Gami’ al-Mogharab fi Fatawi Afriqia, al-Andalus va al-Maghrib’ by Ahmad bin Yahia al-Winshrisi;⁶⁵ ‘Ajubah’ by Mohammad bin Nasir al-Dar’i; ‘Hashiat al-Todi;’ ‘al-Banani ala al-Zarqani;’ ‘Nawazil al-Warzazi;’⁶⁶ etc. ‘Mayyara’⁶⁷ and its explanations were also frequently cited. Noteworthy, ash-Shinqeeti scholars did not imitate others in these publications, but instead authored them insightfully. For example, the genius al-Ghalawi, in his well-known work *Bu Talihyyah*, made a critical approach, as already pointed out.

Some historians believe the scientific revolution in Shinqeet was influenced by the immigrants who came from Andalusia after Granada faced downfall by the Spain. The Maliki Branch and the reading of Nafi’ were early became known in Andalusia. In this respect, Ayyadh argues: “Andalusian people have believed so from when this city was established

⁶³-By the expert, Ahmad bin Bashir ash-Shinqeeti al-Ghalawi al-Maliki (1276). This is an inclusive, major explanation.

⁶⁴-Authored by Ali bin Qasim bin Mohammad al-Fasi al-Maliki, known as Ziqaq. This publication was explained by imam Abu Abdullah Mohammad bin Ahmad Mayyara al-Fasi. His thorough explanation was entitled as “Fath al-Alim al-Khalaq Sarh Lamiah al-Ziqaq.”

⁶⁵-He has been mentioned in the collection ‘Bu Talihiah’ by the genius al-Ghalawi. See: *Bu Talihiah*, *ibid.*, p. 88.

⁶⁶-Mohammad bin Mohammad bin Abdullah bin al-Hosain al-Dar’i, known as the Great al-Warzazi (1166 AH). See *Bu Talihiah*, *ibid.*, p. 94.

⁶⁷-Imam and jurist Mahammad bin Ahmad bin Mohammad, Abu Abdullah Mayyara al-Fasi, was originally from, and grew up and passed away in Fes (999-1072 AH). One of his publications is ‘Nasihat al-Moghtar in fi al-Rad ala Dhawi al-Tafriqa bain al-Muslimin,’ among others. See his translations: *Salwat al-Anfas* (1/ 178-179), *Shajarat an-Nur al-Zakiah*, 309, the List of Moroccan Publications, 340-341.

by al-Awzaghi⁶⁸ up until he went to Malik Ziad bin Abdul Rahman and Ghar'us bin Abbas, and al-Ghazi bin Qais came back after them. Thus, they acquired his knowledge, showing people his goodness and how he is modeled by the community. Therefore, he taught his own branch up until Andalusia's prince of the time, Hisham bin Abdul Rahman bin Mo'aviah bin Hisham bin Abdul Malik bin Marwan, required all people to adhere to the Maliki Branch and the judiciary and fatwa-making was based on this Branch."⁶⁹

Al-Ghazi bin Qais⁷⁰ was a teacher in Qurtoba over the Abdul Rahman al-Dakhel era. He had come from the East, where he carried the message of imam Malik and the reading of Nafi' al-Madani.⁷¹ He was contemporary with Abu Musa al-Hirawi and the other jurists.⁷² Al-Moqri⁷³ purports: "People of Qurtoba strongly act according to Maliki sayings. Moreover, they accredited a judge only if he does not go against the branch of ibn al-Qasim."⁷⁴ This led some scholars⁷⁵ to argue that the cultural movement of Shinqeet was influenced by Andalusia and Morocco. To support their position, they refer the works adopted and common in Shinqeet.⁷⁶ For example, in the field of linguistics and syntax, there are books such as 'Ojroomya' and 'Alfiyyah' by ibn Malik, as well as the books authored by ibn Hayyan and the 'Sharh al-A'lam al-Shamantri' by the Six poets. Moreover, in the Quranic fields of knowledge, there are books authored by

⁶⁸-Abdul Rahman bin Amro bin Yahmad al-Awzaghi (88-157 AH) was an imam, jurist, speaker and commentator. His family name is borrowed from al-Awzagh, one of the villages of Damascus. See: Al-Bidaya val Nihaya, 10 / 115; and Tahdib al-Tahdib, 6, 238.

⁶⁹-Tartib al-Madarik, 1, 26 and 27, Fadala al-Mohammadia, Morocco, first edition.

⁷⁰-Ibid., 1/27.

⁷¹-Bilad Shinqeet: Al-Manara val Ribat, p. 185.

⁷²-Mahdi al-Makhzumi, A'lam fi al-Nahw al-Arabi, p. 103.

⁷³-Shab ad-Din Abu al-Abbas Ahmad bin Mohammad al-Maqri al-Tilmisani was born in Tilmisan city, 992 AH. Among his publications is "Nafh al-Tayyeb min Ghosn al-Andalus al-Ratib va Zikr Waziroha Lisan ad-Din bin Khatib." Also see: Al-I'lam beman Hal Marakesh va Aghmat men al-I'lam, second edition, 1413 AH, Volume 2, p. 106, Shajarat an-Nur al-Zakiyyah, 1, 295.

⁷⁴-Nafh al-Tayyeb, Volume 3, p. 216.

⁷⁵-Shinqeet al-Manara val Ribat, p. 186.

⁷⁶-Al-Khalil al-Nahwi, Bilad Shinqeet val Ribat, p. 186.

ash-Shatebi and al-Dani. There are also books by al-Arabi, al-Qurtobi and ibn Attiya interpreting the provisions. It has been argued that Andalusia developed thanks to its reader (Abu Amro al-Dani), its speaker (Amro bin Abdul al-Bir) and its jurist (Abu al-Walid al-Baji).

In fact, the list is longer and includes more than 70 publications, the majority of which are perhaps influenced by the Shinqeeti culture. One such publication is *Mokhtasar* authored by Khalil bin Ishaq al-Jondi,⁷⁷ who gained a special position among the scholars of this school. That is, they authored 60 explanations of this work and ordered it tens of times.⁷⁸ Moreover, they manifested their jurisprudential mastery through their understanding and discussions of the explanations of this work.

Among those discussed the explanation of *Mokhtasar* is the judge Sunbair⁷⁹ in his work "Fath al-Rab al-Latif fi Takhrij ma fi al-Mokhtasar min Da'if." Moreover, this work in turn has been discussed by the judge Abdullah bin al-Talib Abdullah bin Mohammad bin Anduda al-Mahjubi al-Walati (1220 AH) in his work "al-Tawfir lima Ahmal al-Qadi Sunbair." In al-Mokhtasar, the two prominent scholars of Shinqeet, Haj al-Hasan bin Aghbadi al-Zaidi⁸⁰ and ash-Sharif al-Haj Hami Allah bin Ahmad al-Imam (1169 AH), have also been discussed. Furthermore, on different issues, which go beyond the scope of this research, al-Mokhtasar has mentioned the expert Saidi Mohamad al-Kharshi.⁸¹

⁷⁷-This book was authored by Dia' ad-Din Abu al-Mawada Khalil bin Ishaq bin Musa bin Shu'aib al-Masri (776 or 779). It summarizes imam Malik's branch through showing its fatwas and supporting them by short phrases. The book is distributed to 63 parts and 64 chapters, and includes an epistle. Taken together, the book consists of 300 small-size pages (published by Dar al-Fikr, 1401 AH: 1981).

⁷⁸-Al-Khalil al-Nahwi: *Bilad Shinqeet al-Manarah val Ribat*, 186; also al-Mokhtar bin Hamed, *The Cultural Life of Mauritania*, Volume 2, pp. 8-12.

⁷⁹-Has been discussed.

⁸⁰-Has been discussed.

⁸¹-Mohammad bin al-Amin ash-Shinqeeti, *al-Wasit fi Tarajom Odaba' Shinqeet*, p. 412.

Conclusion:

We found that the ash-Shinqeeti school plays a major role in enriching the jurisprudential literature in general and the fatwa-making area in particular. To illustrate, the scholars of this school have a great impact that cannot be ignored by researchers. Moreover, this school has been for consecutive decades a scientific and civilization symbol not only in West of Africa but also in East of the Arab world. It has also been discussed how ash-Shanaqitah make fatwas according to constant rules and various approaches. This contradicts Ibn Khaldun's rule which states that science and civilization are related to urbanization. In other words, the scholars managed to triumph over the stiff nature and dominant desertification and migration of Shinqeet (currently known as Mauritania). This was done through their open schools (Mahdars), which continued to distribute different Arabic and Islamic fields of knowledge to the desert, to the point that this area became an example in the East as well as the West. Furthermore, this research touched upon the contributions made by those scholars in fatwa-making in particular. We found that they made their fatwas particularly according to the rules of Maliki branch. Such rules include *considering the conventions and traditions, considering the purposes, prevention of means, and considering the benefits.*

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