

RELIGIOUS AUTHORITY AND THE ADMINISTRATION OF ISLAMIC LAW IN BANI NASR ANDALUSIA

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Abstract

Andalusia was one of the centers of Islamic civilization, reaching the peak of its glory in the fields of law, science, and culture. However, during the Bani Nasr Dynasty (1232–1492 CE), Islamic law faced various challenges due to political pressure from Christian kingdoms, internal government conflicts, and social changes that occurred near the end of Islamic rule in the Iberian Peninsula. This study aims to examine the development of Islamic law during the Bani Nasr era, focusing on its development, implementation, and the factors influencing the continuity of the Islamic legal system until the fall of Granada in 1492 CE. This study uses a qualitative research method with a historical approach. Data were obtained through library research from primary and secondary sources, including books, scholarly articles, historical documents and various references relevant to the history of Islamic law in Andalusia. Furthermore, the data were analyzed using descriptive-analytical analysis methods, namely by describing historical facts related to the development of Islamic law during the Bani Nasr era and analyzing the relationship between political, social and religious dynamics and the implementation of Islamic law. The research findings show that the Nasr dynasty successfully maintained Islamic law for more than two centuries despite strong political pressure from Christian kingdoms. The Maliki school remained the primary foundation for legal and judicial practice, while Islamic scholars played a crucial role in maintaining the legitimacy of Islamic law amidst the socio-political changes that occurred. However, the gradual weakening of political and military power diminished the effectiveness of Islamic law implementation, ultimately ending with the fall of Granada in 1492 CE.

Keywords: *Islamic Law, Andalusia, politics, Bani Nasr.*

Introduction

Andalusia is a region in Spain which in the past was the center of prosperous Islamic culture. In the 8th century, this region was conquered by Islamic forces and became part of the Umayyad Caliphate.¹ In the 10th century, after the fall of the caliphate, the region of Andalusia was divided into several small states known as taifa, among them the Bani Nasr. The reign of the Bani Nasr, who ruled between 1230 and 1492, was an important period in the political and

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¹ Philip K. Hitti, *History of The Arabs* (London: Macmilan Press LTD, 1974), 526-530.

legal history of Andalusia.² During this period, there was significant development of the Islamic legal system, as well as the complex relationship between political power and law.

The purpose of this investigation is to: Understand the development of the Islamic legal system: Examining the evolution of the Islamic legal system in Andalusia during the reign of the Bani Nasr. This includes the development of *fiqh* (Islamic law), the implementation of qadi (judges) and related legal structures. Exploring the role of religious institutions: Investigating the role of religious institutions such as *ulama* (Muslim scholars) and other religious institutions in the formation, interpretation and application of Islamic law in Andalusia. Analyzing the relationship between political power and law: Exploring the dynamics of interaction between Bani Nasr political rulers and the Islamic legal system. This includes the influence of government on legal development, legal implementation, as well as political consequences for the existing legal system.³

The scope of the research covers the period of Bani Nasr rule from the 13th to 15th centuries in Andalusia. Relevant resources for this research include Islamic legal texts, historical records, works of scholars, and contemporary literature discussing the period. Analysis can be carried out from a historical, social, political and legal perspective to gain a comprehensive understanding of the relationship between political power and Islamic law in Andalusia during the reign of the Bani Nasr.

Studies on Islamic law in al-Andalus have attracted the attention of numerous scholars, particularly regarding the political, social, and intellectual achievements of Islamic civilization in Spain. Classical and contemporary historians have examined various dimensions of Andalusian civilization, including legal institutions, judicial practices, political authority, and the contributions of Muslim scholars to the development of Islamic jurisprudence. The works of historians such as Hugh Kennedy, L. P. Harvey, and María Rosa Menocal emphasize the significance of al-Andalus as a center of Islamic scholarship and cultural exchange. Furthermore, numerous studies on the history of Islamic law have highlighted the dominance of the Mālikī school of law in al-Andalus and its influence on judicial administration and legal practice in the region.⁴

Previous literature has generally focused on the political history of the Nasrid Kingdom of Granada or the intellectual development of Islamic jurisprudence in Muslim Spain.⁵ Research concerning the Nasrid period has largely emphasized diplomatic relations, military strategies, and the kingdom's efforts to survive amid the expansion of Christian powers during the Reconquista.⁶ Meanwhile, legal studies have tended to discuss the development of Mālikī jurisprudence, the role of jurists (*fuqahā'*), and the transmission of legal knowledge within Andalusian society in general. Although these studies have made significant contributions to understanding the history of Islam in al-Andalus, most have treated political authority and legal institutions as separate spheres of analysis.

² Hasan Ibrahim Hasan, *Tarikh al-Islam*, (Egypt: Matba'ah al-Nahdah, 1967), Vol. IV, 455.

³ Abu Zahrah, *Ibn Taimiyah Hayatuhu wa Asaruhu wa Ara'uh wa Fiqhuh* (Egypt: Dar al-Fikr al-'Arabi, n.d.), 17.

⁴ Filip Jakubowski, *The Effect of the Reconquista on Islamic Law in Al-Andalus in the Light of Selected Fatwa. Colloquia Humanistica* (The Images of the Borders of Civilization), 2017, 10-22.

⁵ Carballeira Debas, A. M. (2011b). Pauvreté et Fondations Pieuses Dans la Grenade Našride: Aspects Sociaux et Juridiques. *Arabica*, 52(3), 391–416.

⁶ Staëvel, J.-P. van. (2006). Institution judiciaire et production de la norme en al-Andalus aux IXe et Xe siècles. In F. Géral (Ed.), *Regards sur al-Andalus (VIIIe-XVe siècles)* 47–80.

A number of scholars have also examined the role of qāḍīs (judges), muftis, and religious scholars in maintaining legal order within Andalusian society. These studies demonstrate that Islamic law functioned not only as a religious norm but also as a practical mechanism for regulating social relations, resolving disputes, and legitimizing political authority. However, most research has focused on the Umayyad and Taifa periods, while the development of Islamic law during the Nasrid era has received comparatively limited scholarly attention. Consequently, understanding of how Islamic legal institutions adapted to political transformations during the final stages of Muslim rule in the Iberian Peninsula remains incomplete.

Furthermore, the relationship between political authority and Islamic law during the Bani Nasr has not been extensively explored through an integrated historical and juridical approach. Existing studies generally discuss legal institutions without thoroughly connecting them to the political challenges faced by Nasrid rulers, such as territorial contraction, military pressure from Christian kingdoms, and internal political rivalries.⁷ Conversely, studies on Nasrid political history often overlook the role of Islamic law in shaping governance, legitimizing political authority, and maintaining social stability. This condition reveals a significant research gap concerning the reciprocal relationship between legal development and political power during the Nasrid period.⁸

This study seeks to address this gap by examining the development of Islamic law in al-Andalus during the rule of the Bani Nasr through an interdisciplinary approach that combines historical, political, and legal analysis. Unlike previous studies that focus exclusively on legal doctrines or political events, this research investigates the interaction between legal institutions, religious scholars, and political rulers in shaping the judicial system and administrative governance. Particular attention is given to the role of Mālikī jurisprudence, the authority of qāḍīs and religious scholars, and the strategies employed by Nasrid rulers in utilizing Islamic law as a source of political legitimacy.

Accordingly, the novelty of this research lies in its attempt to establish a clear connection between political authority and the development of Islamic law during the Nasrid period. By integrating legal and political perspectives, this study aims to provide a more comprehensive understanding of the final phase of Islamic civilization in al-Andalus while enriching scholarly discussions on the relationship between law, religion, and political power in Islamic history.

The Existence of Islamic Law in Andalusia during the Reign of the Bani Nasr

During the reign of the Bani Nasr in Andalusia (or Al-Andalus), Islamic law had a very strong and influential existence. The Bani Nasr were one of the ruling dynasties in Al-Andalus in the 13th century. The Bani Nasr were one of the ruling dynasties in Al-Andalus in the period around the 13th century. Al-Andalus was a region largely controlled by Muslims on the Iberian

⁷ Corriente, F., *A Dictionary of Andalusī Arabic*. (Leiden: Brill, 1997).

⁸ Friedmann, Y., *Tolerance and Coercion in Islam: Interfaith Relations in the Muslim Tradition* (New York: Cambridge University Press, 2006).

Peninsula (modern Spain) for centuries.⁹ During the reign of the Bani Nasr, Islamic law did have a strong and influential existence in the region. The Islamic legal system or Sharia had a significant influence in Al-Andalus at that time. Muslim governments use Islamic law as a basis for regulating social, economic and political life in the region. Courts use Islamic law to resolve disputes and other legal issues.¹⁰

Apart from that, during the reign of the Bani Nasr, Al-Andalus also became an important center of intellectual and cultural activity in the Islamic world. This region became a place where science, philosophy, art and literature flourished. Cities such as Cordoba, Seville, and Granada became centers of intellectual activity that brought together scientists, philosophers, and intellectuals from various fields. At that time, the existence of the Islamic kingdom in Al-Andalus experienced rapid development in the fields of science, mathematics, astronomy, medicine and art. Large libraries, such as the Cordoba Library, became important centers of knowledge in the Islamic world at that time.¹¹

Under the leadership of the Bani Nasr, Islamic law, known as sharia, became the basis for the legal system in the region. The Islamic legal system covers various aspects of life, including civil law, criminal law, family law, and economic law. Islamic law is widely applied in everyday life, and *ulama* (religious scholars) play an important role in interpreting and implementing these laws. When the Bani Nasr came to power, the influence of Islamic law was not only limited to legal aspects, but also influenced the culture, art, architecture and social life of the people of Al-Andalus in general. The intellectual presence, especially in cities such as Cordoba, Seville, and Granada, gave great impetus to the development of science, philosophy, and religious studies.¹²

During the reign of the Bani Nasr, the existence of Islamic law helped support religious tolerance, allowing ethnic and religious diversity to develop in Al-Andalus. This creates a relatively tolerant environment for people from various religious and cultural backgrounds. However, it is important to note that the political, social, and cultural conditions in Al-Andalus are complex and continue to change over time, with internal and external conflicts affecting the stability of the region. Although Islamic law had a major influence in Al-Andalus during the reign of the Bani Nasr, various other factors also played a role in shaping the dynamics of community life at that time.

Religious Authority and the Administration of Islamic Law in Nasrid Andalusia

During the time of the Bani Nasr in Andalusia, religious authorities had an important role in maintaining and interpreting Islamic law. Ulama (Islamic religious scholars) and qadi (sharia judges) play key roles in maintaining social order, interpreting Islamic law, and upholding justice in society. *Ulama* (Religious Scholars): *Ulama* are experts in Islamic religious

⁹ Mahmoud Makki, "The Political History of Al-Andalus," in *The Legacy of Muslim Spain* (Leiden: EJBrill, 1994), 5.

¹⁰ Dedi Sahputra Napitupulu, "Romantika Sejarah Kejayaan Islam Di Spanyol," *MUKADIMAH: Jurnal Pendidikan, Sejarah, dan Ilmu-ilmu Sosial* 3, no. 1 (2019): 7–18.

¹¹ Meirison, "Islamic Tolerance on Religious Freedom, Culture and Thought in Andalusia," *HIKMATUNA Journal for Integrative Islamic Studies* 6, no. 1 (2020): 63–73.

¹² Itsnawati Nurrohmah Saputri, "Daulah Umayyah Di Andalusia Dan Hasil Budayanya (756-1031 M)," *JUSPI (Jurnal Sejarah Peradaban Islam)* 4, no. 2 (2021): 149–157.

knowledge and *sharia* law. They play an important role in understanding, teaching, and interpreting Islamic teachings.¹³ In Andalusia, clerics have the responsibility to provide *fatwas* (legal opinions) based on interpretations of the Al Quran, Hadith and principles of Islamic law to the community. They also became spiritual and intellectual leaders who influenced many aspects of society, including politics and culture.

Qadi (Sharia Judge): *Qadi* is a judge whose job is to enforce sharia law in the Islamic justice system. They refer to Islamic law in resolving disputes and legal cases that arise in society.¹⁴ *Qadis* play a role in maintaining justice and providing fair decisions based on Islamic law, following guidance from ulama and other sources of Islamic law. Under the leadership of the Bani Nasr, ulama and qadi had strong authority in spreading and explaining Islamic teachings and enforcing its laws. They not only served as religious authorities but also served as moral and social guardians, creating a framework for social and legal stability within Andalusian society. The existence of ulama and qadi in maintaining and interpreting Islamic law in Andalusia during the Bani Nasr era became an important pillar in maintaining social order, spreading religious teachings, and maintaining consistency in the application of *sharia* law in the region.¹⁵

The existence of Islamic law in the Bani Nasr government structure can be proven in the Qadi al-Jama'ah institution which regulates the administration of justice in Andalusia. The Bani Nasr government structure in Granada consisted of three main positions that were directly responsible to the sultan, namely Sheikh al-Guzat, Wazir, and Qadi al Jama'ah. Details of the Bani Nasr government structure in Granada can be seen below, namely:

i. Sheikh al-Guzat

Sheikh al-Guzat is the position that leads the armed forces, both regular and mercenary troops. This position is comparable to that of *Amir al-Umara'* in the later Abbasid period. Special tribal structure and support for the leadership in giving absolute power to Sheikh al-Guzat. The position of Sheikh al-Guzat was introduced to replace the power of the Bani Ashilullah who were responsible for the founding of the Bani Nasr dynasty. The Bani Ashilullah fell into the habit of rebelling against the Bani Nasr on many occasions. To balance their strength, the Bani Nasr welcomed the Bani Marin clans left by Sultan Mansur in Andalusia. The first Sheikh al-Guzat was appointed from the Bani Marin people. Sheikh al-Guzat was given a number of powers which were bestowed on Yahya Ibn Umar by Sultan Abu al-Hajjaj Yusuf in 733-755 H/1334-1354 AD. The titles mentioned in the inauguration were Pillar of Strength, Sword of *Jihad*, Supreme Leader of Defense, Royal Rope and so on. Usman Ibn Abi al-Ula' was the most powerful and famous Sheikh al-Guzat in the history of Banu Nasr. Usman was the head of the Bani Ula' from the Marin tribes who had gathered strength against the ruler of the Bani Marin, Abu Yusuf Ya'qub (685-706 H). Uthman was defeated in 707 AH and fled to Andalusia with his troops.

¹³ Manan, N. A. Kemajuan dan Kemunduran Peradaban Islam di Eropa (711M1492M). *Jurnal Adabiya*, 21(1), 2020. 54

¹⁴ Abu Ajfan, *Min Asar Fuqaha al-Andalus: Fatawa al-Imam al-Syatibi*, (Tunis: Matba'ah al-Kawakib, 1985), 32.

¹⁵ Al-Mawardi, *al-Ahkam al-Sultaniyah* (Cairo: Mustafa al-Halabi wa Awladuh, 1960), 25.

In Granada, Usman was warmly welcomed by Muhammad V al-Gani Billah. The Bani Marin Sultan threatened and asked Muhammad V to send Usman back to Africa to be punished, but the Bani Nasr awarded him the post of Sheikh al-Guzat. However, Muhammad V had decided to destroy the power of Sheikh al-Guzat. As a consequence, within a year, Muhammad V fired Usman and removed his entire family from the political field. Muhammad V appointed other figures from the Bani Marin to carry out necessary functions, but limited their power by taking two steps.¹⁶ First, Muhammad V directly led almost all attacks against Christians which indirectly reduced Sheikh al-Guzat's authority.¹⁷ Second, Muhammad V sent Sheikh al-Guzat on an attack against the Banu Marin which meant discrediting them as Gazi, because they were fighting Muslims, their friends and relatives.

ii. *Wizarat* (Ministerial Institution)

Wizarat is the second most powerful position in the Bani Nasr political structure. Ibn Sa'id found that the *wizarah* institution in the *Umayyid* Andalusian government consisted of two groups of nobles, namely first, a group of nobles who assisted the caliph in the political strategy of government; second, the group of nobles who assisted the caliph in running the day-to-day government. One of the two groups appointed by the caliph as his deputies was the *hajib*. This position is a hereditary right and lasts in a particular family. The positions of *hajib* and *vizier* were often combined into one institution. During the reign of Bani Nasr, the emergence of the institution of Sheikh al-Guzat defeated the powers of the *viziers*. Below the *vizier* were the *kuttabs* (secretaries) who held various civil administration positions. The *wazir* also headed the *syurtah* (city police).¹⁸

The *viziers* of the Bani Nasr dynasty in the early days came from noble families, such as Abu Marwan Ibn Sanadid, once the ruler of Jaen, and Qa'id Abu Abdullah al-Ramini, son of the ruler of Almeria. Both of them were *viziers* of al-Galib Billah who had very strong family ties. However, the *viziers* who emerged later came from educated people who understood the civil administration of government. The *viziers* received support because of diplomatic influence. Their power is often temporary. Whenever their conspiracy failed, it could hasten the destruction of the *vizier's* power. These *viziers* were often imprisoned, exiled and killed. Because this *vizier*, who came from an educated circle, had no political support from the army or his tribe.

iii. *Qadi al-Jama'ah*

Qadi al-Jama'ah (judicial institution) is the most respected and prestigious position in the Bani Nasr political structure. *Qadi al-Jama'ah* is the name for the chief *qadi* (judge) in Granada. This fact can be proven by the large salary. Ceremonial inaugurations and formal appointment decrees are given to *qadis* (judges). The *Qadi al-Jama'ah* enjoyed extensive privileges, namely being responsible for the administration of justice, inspection of markets and regulating trade contracts. In addition to the administration of justice, *fuqaha* were officially close to the palace

¹⁶ Muhammad Abdullah al-Inan, *Nihayah al-Andalusia* (Cairo: Matba'at al-Misr, 1958), 49.

¹⁷ Paul Nwiya, *Ibn Abbad de Ronda* (Bairut: Imprimerie Catholique, 1961), 27.

¹⁸ Abu al-Hasan Ali Ibn Yusuf al-Hakim, *al-Dawhat al-Musytabikah fi Dawabit Dar al-Sikkah* (Madrid: Ma'had al-Dirasat al-Islamiyyah, 1960), 5253.

as *mufti* (legal consultants), *musawwir* (consultants), and *wuttaq* (drafters and notaries). The administration of religious property and *waqf* is under their authority. Every time a ruler gave charity for a certain purpose, Qadi al-Jama'ah appointed a faqih to supervise him, such as the appointment of Abu Abdullah al-Haffar (811 AH) and Ibn al-Qabbab (779 AH/1378 AD). Inspection of trade is the authority of the *fuqaha*.

Fuqaha is responsible for determining the price, quality and weight of merchandise on the market. Islamic law against *riba* (usury) and *qimar* (speculation) prohibits a number of transactions which therefore require supervision from legal experts, namely fuqaha. This prohibition applies to transactions involving the exchange and printing of money.¹⁹ Important positions in printing money such as Wasi al-Sikkah were held by *fuqaha*. *Qadi al-Jama'ah* was sometimes the chief preacher of Granada. The office of the chief preacher adjoined the office of the *Qadi al-Jama'ah* in its importance in the capital Granada and other cities of the Bani Nasr kingdom. The position of Khatib is accompanied by a number of other religious positions, such as the position of *muezzin* and so on. All positions benefit the *Qadi al-Jama'ah* institution. Often supervision over land owned by officials commensurate with their rank was given to these positions. Qadi al-Jama'ah does not have executive powers such as war command of the army, police and others. The executive power of the *Qadi al-Jama'ah* is subordinate to the sultan.

The Sultan's executive power supports the qadi's decisions in determining cases in court. The Sultan often intervened in determining justice administration policies. Symbolically, the qadi enjoyed the highest prestige in the political structure of the Bani Nasr government and the Qadi had broad influence in matters of state, because the *Qadi al-Jama'ah* was responsible for the appointment of a number of important functions in the administration of judicial and religious affairs. The basis of his authority lay in his existence as part of the religious elite which had grown in strength during the Umawi dynasty and had proven itself indispensable since then. Qadi al-Nubahi's success in prosecuting the very powerful vizier, namely Ibn al-Khatib, is an example of the power of the Qadis in the political structure of the Bani Nasr government. Sultan Muhammad V was angered by Ibn al-Khatib's defection to Morocco. From certain reports it seems that there was competition between Qadi al-Nubahi and Ibn al-Khatib. Ibn al-Khatib's report in his book entitled *A'mal al-'Alam* and *al-Katibat al-Kaminah* stated that he exceeded the bounds of politeness in insulting Qadi al-Nubahi at the palace. To insult Qadi al-Jama'ah in public is to belittle the judiciary. This ridicule was not without the blessing of the sultan. The Sultan actually encouraged the vizier to do so, because such taunts weakened the position of *Qadi al-Jama'ah*.²⁰

Only after Ibn al-Khatib moved to Morocco was Qadi al-Nubahi able to accuse Ibn al-Khatib publicly. Qadi al-Nubahi accused Ibn al-Khatib of heresy and said that Ibn Khatib was *zindiq* because of his passion for philosophy. Towards the middle of 773 AH, Qadi al-Nubahi announced his fatwa prohibiting the use of books written by Ibn al-Khatib relating to moral beliefs and teachings.²¹ In this accusation, of course, al-Nubahi was supported by the sultan. Sultan Muhammad V and succeeded in having Ibn al-Khatib prosecuted at the Bani Marin

¹⁹ Muhammad Kamal al-Sabana, "al-Hakat al-Iqtisadiyah bi al-Andalus Khilal al-Qurn al-Samin al-Hijr" in *al-Bahr al-'Ilm*, (Rabat: tp 1966), Vol. III, 134.

²⁰ Muhammad Abdullah al-'Inan, *al-Asar al-Andalusiyah al-Baqiyah fi Isbaniyyah wa al-Burtughal* (Cairo: Syirkah Musahamah Misriyyah, 1956), 170.

²¹ Jamil Abd al-Nasr, *A History of The Maqrib*, (Cambridge: Cambridge University Press, 1971), 11.

palace as a zindiq person. Qadi al-Nubahi was sent to Morocco to bring him home to Andalusia, but Ibn al-Khatib was fraudulently imprisoned and then burned in Morocco.²² The sultan succeeded in removing a vizier who had become too powerful by using the qadi for his personal gain, and achieved the goal of being independent of the *qadi* and vizier positions. With these methods, Sultan Muhammad V al-Gani Billah was able to maintain the stability of his power as absolute king to ward off forces that wanted to destroy the Bani Nasr government from within over the next few years. However, this political system did not allow political institutions to become strong and powerful to work even with a weaker sultan replacing sultan Muhammad V. Politically, *Qadi al-Jama'ah* became a very influential position, but the sultan was able to use it to consolidate his power Alone. This may have occurred because of the religious authority of the *fuqaha* where the qadi's independent power had been weakened.

Fuqaha Legal Politics

Historians do not forget to mention the role of *fuqaha* in political affairs as a characteristic feature of the history of Muslims and the existence of Islamic law in Andalusia. Muhammad Khalid Mas'ud put forward three reasons for scholars regarding the political significance of *fuqaha* law in Andalusia. First, Ibn Khaldun and Golziher apply the argument that it was the conservatism of Andalusian Arabs that encouraged the spread of the Malik school of thought and ultimately gave significance to the *fuqaha* since they became the bulwark of this tradition. Second, the need for legitimacy for *fuqaha* power has always been felt by Muslim rulers in Andalusia. The Umayyads who fled from the pursuit of the Abbasids needed religious support to justify them. Malik Ibn Anas, who they saw as opposing the Abbasids, was the ideal choice for them. Third, the establishment of an aristocracy-religious style consisting of *fuqaha* and *ulama* forming an intellectual and social elite towards the time of Hakam I (180-206 H/796-822 AD).²³

When Hakam I attempted to limit their influence, the *fuqaha* staged two rebellions in Cordova. In this rebellion, the *fuqaha* received support from a number of aristocrats at court and society in the suburbs of Cordova. This rebellion was unsuccessful, but Hakam was forced to recognize the *fuqaha*. According to the author, the three reasons (factors) above cannot adequately explain the influence of the *fuqaha*, especially during the reign of Bani Nasr, but the third reason may explain this phenomenon better than the other reasons. Because it is difficult to classify the generality of Andalusian society in Ibn Khaldun's mindset as a primitive and conservative society.²⁴ There is a number of pieces of evidence that contradict Ibn Khaldun's opinion, namely that the people of Andalusia (Granada) were very flexible in accepting the way of life of their Christian neighbors, such as matters relating to clothing and recreation. Conservatism is also absent from their ever changing practices in trade and commerce. The existence of conservatism in the intellectual activities, attitudes and academics of the elite, may only be the result, not the cause, of the conservatism of the *fuqaha*. It is difficult to maintain that the rulers' alliance with the *fuqaha* was based on the rulers' need for religious legitimacy.

²² Ibn Sa'id, *al-Maghrib fi Hula al-Maghrib* (Cairo: Dar al-Ma'arif, 1953), Vol. I, 57.

²³ Rosenthal, *Political Thought in Medieval Islam* (Cambridge, Cambridge University Press, 1962), 44.

²⁴ Muhsin Mahdi, *Ibn Khaldun's Philosophy of History* (Chicago: Phoenix, 1964), 35.

In a society, the power of a usurper can be justified in political theory by equating *de facto* with *de jure*. The need for a religious institution for this purpose is not too great. Regarding the Bani Nasr's claim to the legitimacy of the *fuqaha*'s authority, the emphasis is more on their familiarity than on religious teachings. Tensions between Arabs and Barbarians are a prominent aspect of Andalusian history. Two Barbarian dynasties, the Murabitun and Muwahhidun, and Arab elements appeared again, manifesting the emergence of the Bani Hud and Bani Nasr. The Arab tribes were supported by local Andalusian elements and Arab aristocrats. They distrusted the Barbarians, seeking the Barbarians' help only temporarily. The Barbarians relied more on a religion of piety which expressed a passion for jihad and Sufism, while the Bani Nasr emphasized the honor of genealogy.

The founder of the Bani Nasr dynasty is called Marwani (one of the Umayyad caliphs) by contemporary historians. This shows that the Bani Nasr in every possible way wanted to present themselves as a continuation of the Bani Umayyah. Then the Banu Nasr connected themselves with the Khazraj tribe of Medina. Ibn al-Khatib established the correctness of their genealogy from earlier sources and Ibn Zumruk recounted the praises that told of the services of the Khazraj tribe in the time of the Prophet. Ibn Zumruk's poems describing genealogical superiority were immortalized by al-Maqqari in the book *Nafh al-Tib*, The obvious fact that the Bani Nasr emphasized their lineage from the Ansar was very dangerous as an excuse to seek religious support to legitimize their power. Bearing in mind the accepted orthodox teaching about the superiority of the Quraysh over the Ansar. This argument shows how very important the religious aspect is in legitimizing the descendants of Bani Nasr. The discussion above is very necessary to show that the need for legitimacy exists, but it does not have to be sought from the jurists. The rulers needed the support of the jurists through strong family ties and landowners who had established themselves in Spain as a political power.²⁵ Ibn Sa'id stated in his narrative about *fuqaha* in Andalusian society that the call of *faqih* was very honorable for them, so that Andalusian society made a noble reference to the emir (sultan) as *faqih*. Because this title is a noble religious title for the Andalusian people.²⁶

At the time of Ibn Sa'id the term *faqih* in the West was the same as the meaning of a Qadi in the East. Andalusian people sometimes call the *katib* (secretary), a grammarian and a linguist a *faqih* because this is their highest calling. The status of *fuqaha* which legitimizes their function in political administration is supported by three forms of control over society (social). First, control over a number of important and profitable positions in the Bani Nasr government system. Second, control over educational institutions. Third, control over the movement of thought. The three forms of control carried out by the *fuqaha* can maintain the conservative Maliki tradition. When they lost control of these factors in the 14th century AD, the *fuqaha* in Andalusia were no longer able to maintain religious authority and political power.

1. Control of Educational Institutions

Ibn Sa'id, who visited Andalusia at the beginning of the Bani Nasr period, described the educational conditions of the Andalusian people who were most eager to pursue knowledge. Scholars received the most honorable rank among both the elite and the common people. Even

²⁵ JT Monroe, *Islam and The Arabs in Spanish Scholarship* (Leiden: Brill, 1970), 233.

²⁶ Levi-Provencal, 'Al-Andalus' in *The Encyclopedia of Islam* (Leiden: Brill, 1960), 149.

though Andalusian people do not have formal educational institutions (*madaris*) as a vehicle for the academic process, they prefer to study all knowledge in mosques. Andalusian educational institutions were completely in the hands of the *fuqaha*. *Fuqaha* are free to determine the curriculum for teaching, how to teach, and evaluate student achievement. This education system is beneficial for *fuqaha* in two ways. First, this education system builds the influence and supremacy of *fuqaha* over society. *Fuqaha* cannot have this advantage in the *madrasah* education system, because in the *madrasah* education system, *fuqaha* are limited in determining the curriculum and have standards in evaluating student graduation. Since there is no institutionalized higher education system, people depend on teachers to obtain diploma certificates. Second, the education system in Andalusia allows the *fuqaha* to maintain traditions while controlling any ideas or movements that might oppose those traditions.²⁷

Fuqaha in the West truly realize the benefits of opposing the madrasa education system to maintain its existence. Formal educational institutions were introduced late in Andalusia. The first *madrasah* was built by Qa'id Ridwan (d. 760/1359) hajib from Abu Yusuf al-Hajjaj (733-755/1333-1354). This step was strongly opposed by the *fuqaha* in Andalusia. There are two reasons for the Maliki *fuqaha* why educational institutions are difficult to accept in Andalusia. First, that the establishment of a *madrasah* is heresy. Second, the establishment of *madrasahs* suppressed the independence of *ulama*, which also resulted in the independence of science. The establishment of madrasas resulted in the loss of independence of *fuqaha* and *ulama* in developing science. Although these changes did not directly affect the status of the *fuqaha* aristocracy, their control over intellectual movements and resistance to Sufism did loosen. After the founding of the *madrasah*, Sufism and Sufi traditions gained a wider following in Granada society.

2. Control Over Pure Rationality

Ibn Sa'id stated that the Andalusian people studied and developed every science except philosophy and astronomy. The sciences of philosophy and astronomy were especially pursued by government elites, but did not dare to show this interest in public for fear of the common people. Because, someone who was known to have studied philosophy and astronomy was accused of being *zindiq* (heretic), and his life was threatened (*qayyadat 'alaihi luthu*) by sanctions from society by stoning him to death or burying him alive before the case was brought to the sultan. Ibn Sa'id's research is supported by facts that show a reluctance to study philosophy. Ibn Khaldun relates that his teacher Abili taught philosophy to Ibn Abd al-Salam in secret. The condemnation of studying philosophy is a very common theme in the literature written by Andalusian *fuqaha*. This antagonism has developed to such an extent that al-Gazali's works are considered philosophical works that are prohibited in Andalusia. A famous case is the curse of the vizier Ibn al-Khatib.

Qadi alNubahi was asked to corner Ibn al-Khatib and state that Ibn al-Khatib was *zindiq* because of his passion for philosophy and other similar fields. Qadi al-Nubahi's attitude towards philosophy can be studied in his book which discusses the administration of justice

²⁷ E. Sharqawi, *Religion and Philosophy in Thought of Fakhr al-Din al-Razi* (Canada: McGill University, 1970), 285.

and the biographies of the *Qadis*.²⁸ Qadi al-Nubahi stated that something related to a school of philosophy, which is contrary to the Shari'ah or something similar to that is found in someone's handwriting, the legal practice that must be carried out in this matter is to study the written material. If it is clear that it is the author's opinion and something he agrees with, even though the author may deny it verbally and the article is found to merely quote philosophical schools without attributing the statement to the author, then the case will be decided based on the material written. The books should be burned and their owners should be punished. Towards the middle of 773 AH, Qadi al-Nubahi announced that the books written by Ibn al-Khatib were burned in the presence of the *fuqaha*, *mudarrisin* (teachers), and other parties besides the *fuqaha*, because Ibn al-Khatib was considered *zindiq* and write books containing philosophy.²⁹ Sultan Muhammad V, assisted by Qadi al-Nubahi and Ibn Zumruk, finally succeeded after several years of fighting to have Ibn al-Khatib prosecuted at the Bani Marin court as a *zindiq*. Ibn al-Khatib was treacherously murdered in prison and then burned.

The tragic death of Ibn al-Khatib explains the power of the *fuqaha* in opposing philosophy. The case of Ibn al-Khatib proves that the reason for opposing such philosophies and schools was to maintain the supremacy of the shari'ah, the basis of the religious authority of the *fuqaha*. These facts are found in al-Nubahi's letter to Ibn al-Khatib which has been immortalized in the book *Nafh al-Tib* by al-Maqqari. Al-Nubahi accused Ibn al-Khatib while saying in his letter: "that this unfavorable term of office (i.e., the *qada'* period held by Qadi al-Nubahi while Ibn al-Khatib's cabinet (*wazir*) was running is nonsense which occurred because your insults towards the provisions of the Shari'ah, and your insults towards religious matters..."

It is possible that Ibn al-Khatib defended philosophy and pure thought due, among other things, to the introduction of the al-Razi school into the Malik school in Andalusia in the 13th century AD. Fakhruddin al-Razi was responsible for the increasing status of theology to be closer to philosophy, but the influence of al-Razi means the awakening of interest in the field of philosophy. Al-Razi's school was introduced into the Maliki school of thought mainly through the proposal of *al-fiqh*. This made acceptance of al-Razi's teachings easier, and resistance to pure philosophy weaker. In the Eastern Maliki school, this influence manifests itself in two works on *ulus al-fiqh* which are in many ways based on the book *al-Mahsul*, the work of al-Razi in the field of *ulus alfiqh*. First, a book written by Ibn al-Hajib (d. 646 AH), namely *Muntaha al-Su'ul wa al-Amal fi 'Ilmi al-Usul al al-Jadal*. Second, the book *Tanqih al-Fusul* by Shihabuddin al-Qarafi (d. 684 H), a student of Ibn Hajib.³⁰ In this period, philosophy and other social sciences were of great interest to certain individuals but were studied in secret.³¹ The texts that were read closely included the works of Ibn Sina and al-Farabi. Such tendencies encouraged freedom of thought and intellectual activity in general, but what perhaps accelerated the freethinking movement was the increase in Sufi *tariqattariqat*. Maliki *fuqaha* failed in its efforts to oppose Sufism and began to be soft in the face of Maliki's strict legal traditions.

²⁸ Muhammad Makhluf, *Syajarat al-Nur al-Zakiyyah* (Cairo: Salafiyyah, 1931), 168-189.

²⁹ Ibn al-Khatib, *al-Ihatah fi Akhbar al-Garnata* (Cairo: Matba'ah Mawsu'at, 1319), Vol. II, 20.

³⁰ Shihabuddin al-Qarafi, *al-Furuq* (Cairo: Dar Ihya Politik al-'Arabiyyah), 1346, 210.

³¹ Shihabuddin al-Qarafi, *al-Ihkam fi Tamyiz al-Fatawa 'an al-Ahkam*, ed. Abd al-Fatah Abu Gaddah (Halab: Matbu'at Islamiyyah, 1967), 18.

3. Opposition to Sufism

The supremacy of shari'ah as the core power of religious authority possessed by *fuqaha* is threatened by philosophy and theology as long as these two sciences are ignored and make shari'ah authority the only guide to life. But Sufism perhaps represents a more direct threat to the Shari'a than other schools of thought. The emphasis on piety, religious and moral commitment attracted many intellectuals and lay people, so the increase in Sufism among Andalusian society was of course considered a threat by the Maliki school of thought.³² Because Sufism teaches a simple lifestyle. This is different from the exclusive and feminine lifestyle of the *fuqaha*. In the 12th century, when the Maliki school of thought had been re-established by the Murabituns, the *fuqaha* had begun to eliminate Sufism from Andalusia. Among the Sufis denounced by the *fuqaha* were Abu Bakr Muhammad of Cordova, Ibn al-Arif of Almeria, and Ibn Barrajan of Seville. The three of them were persecuted and died in prison. Ibn Barrajan criticized the Maliki *fuqaha*'s attitude of ignoring the hadith and succeeded in gathering enough supporters in Almeria to form an opposition aimed at opposing the *fuqaha*.

Another development against the government and *fuqaha*, led by a Sufi, namely Abu al-Qaim Ibn al-Qasiyy, a student of Ibn al-Arif (1088-1141 AD). This rebellion occurred in the Algraves region (Southern Portugal) in 1141 AD. Ibn Qasiyy was killed in 546/1151. *Fuqaha* considers Sufism a threat to the Maliki school. The book *Ihya' 'Ulum al-Din* by Imam al-Gazali is a victim of the *fuqaha*'s stance against Sufism in Andalusia.³³ The initial reaction to the book *Ihya' 'Ulum al-Din* came from Abu Bakr al-Turtusi (d. 520 AH) who wrote a book to refute al-Gazali's work in the field of Sufism. Rejection of the book *Ihya' 'Ulum al-Din* coincided with the persecution of Ibn al-Arif, the first person to interpret the book *Ihya' 'Ulum al-Din* in Andalusia. In 537 AH, Ali Ibn Yusuf Ibn Tasyufin (the figure who persecuted Ibn Barrajan and other Sufis) ordered all copies of the book *Ihya' 'Ulum al-Din* to be burned in public.³⁴ Qadi 'Iyad (d. 544 AH) and Abu Hasan Ibn Hirzihim issued a fatwa supporting the burning of all copies of the book *Ihya' 'Ulum al-Din*. Andalusia had opposed Sufism successfully, but in the 13th and 14th centuries AD travelers and biographers mention the emergence of a number of *Zawiyah*, venerable Sufis and a number of works on Sufism.³⁵ Ibn Battutah mentions two *zawiyah* among other such centers of Sufism around Granada, namely the *zawiyah al-Mahruq* and the *ribat al-'Uqbah*.³⁶

Two important works in Sufism in the 14th century AD were written by Andalusian Sufis, namely *Zuhrat al-Ahkam* by Abu Ishaq Ibrahim Ibn Yahya al-Ansari (d. 751 AH) from Murcia and *Buqyat al-Salik fi Asyraf al-Masalik fi Maratib al-Sufiyyah wa Tara'iq al-Muridin* by Abu Abdullah Muhammad Ibn Muhammad al-Ansari al-Malaqi (d. 754 AH). This phenomenon affected the intellectual and social status of the *fuqaha*. The emphasis on pious and simple living in the personal lives of Sufis was in stark contrast to the aristocratic lifestyle displayed by the *fuqaha*. This difference in lifestyle may have made Sufis more popular than *fuqaha* in the eyes of the general public. The increasing influence of the Sufis in the eyes of society, especially among the Barbary volunteer troops, was recognized by the authorities who

³² J. Spencer Trimingham, *The Sufi Orders in Islam* (Oxford: Clarendon, 1971), 46.

³³ Margaret Smith, *al-Ghazali The Mystic* (London: Luzac, 1944), 21.

³⁴ Muhammad al-Zabidi al-Murtada, *Ithaf Sadat al-Muttaqin* (Cairo: Mathba'at Maimaniyyah, 1893), Vol. I, 10.

³⁵ Bernard Lewis, *The Middle East: A Brief History of the Lost 2000 Years* (New York: Scribner, 1995), 87.

³⁶ Ibn Battutah, *Tuhfat al-Nuzzar fi Ghara'ib al-Amsar wa Aja'ib al-Asfar 1225-1354* (London: Amiriyyah, 1934), Vol. II, 294.

aimed to enforce piety and influence over the warrior tribes. The authorities began to pay attention to the Sheikh and Sufi ribat. The *Fuqaha* recognized this change, and some of them began to move towards Sufism. This tendency is evident from the number of fatwas which mention the popularity of Sufism among the *fuqaha*. The influence of Sufism on fiqh can be seen from changes in the attitudes of *fuqaha* towards Sufis.³⁷ First, the Sufis did not abolish *sharia*, but abolished *fuqaha* behavior, by suppressing the principles of moral commitment (*wara'* and asceticism).³⁸

The way *fuqaha* carry out religious teachings is more legalistic. Second, instead of confining the *fuqaha* themselves to fiqh books, the Sufis called for a return to the Qur'an and al-Sunnah. The influence that explains the two aspects above on the *fiqh* tradition can be seen in the discourse on the origins of *al-fiqh* in this period. *Fuqaha* had to make concessions to these two principles. Qarafi discusses *zuhud* and *wara'* as one of the foundations of *fiqh*. The theory of Islamic law developed by Ibn Abd al-Salam illustrates this accommodation. The influence of Sufism had grown strongly towards the 13th century AD.³⁹ At the same time as the Muwahiduns passed away, the Maliki school of thought re-emerged, but the emergence of the Maliki school of thought was no longer a continuation of past traditions. The Maliki sect faces many challenges, both socially and politically. In this period *fiqh* and Sufism actively came to the fore, and those who realized the power of these two movements took steps to merge the two. They encouraged the *fuqaha* to recognize Sufism, and began to provide financial assistance to *ribats* with large amounts of *waqf*. According to *fuqaha*, even though the Sufi sect and *fuqaha* can be compromised, there are still other aspects of Sufism that continue to threaten them.

This threat can be seen in three aspects. First, the teachings of Tariqat-Sufism which demands total submission to the sheikh. This submission eliminated the religious authority that had been held by the *fuqaha*. Second, the fact that a number of Sufi teachings such as dhikr replace the rituals prescribed by fiqh. This cannot be tolerated by the *fuqaha*. Al-Syatibi, a Maliki *fuqaha*, even stated that such practices which deviated from the Shari'ah were *kufir*, and condemned the perpetrators to be sentenced to death.⁴⁰ The *Fuqaha* were hardly able to put up strong resistance to these ceremonies considering that this heresy was very popular among all groups of society.⁴¹ So the situation forced them to review their stance on heresy. Third, threats of an economic nature. It was previously mentioned that abundant donations and waqf land were given to *zawiyah* and Sufi ribats. This wealth attracted a number of pious people and travelers. Ibn Battutah met Sufis in these central areas in almost all corners of the Islamic world. The *fuqaha* was appointed to oversee the costs of such donations, while supervision and maintenance of such property was left to the Sheikh who led the *zawiyah* and his colleagues. A number of *fuqaha* opposed the behavior and views of this Sufi tariqats. According to the *fuqaha*, Sufi centers attract and encourage laziness in society. According to some pious people,

³⁷ Ibn Qayyim al-Jauziyah, *I'lam al-Muwaqqi'in* (Bairut: Dar al-Fikr, 1977), Juz. II.

³⁸ Henry Corbin, *Alone with Alone: Creative Imagination in the Sufism of Ibn Arabi* (New Jersey: Princeton University Press, 1997), 59.

³⁹ Robby Habiba Abror, "The History and Contribution of Philosophy in Islamic Thought," *Al-Turas Bulletin* 26, no. 2 (2020): 317–334.

⁴⁰ Khalid Mas'ud, *Islamic Legal Philosophy: A Study of Abu Ishaq al-Shatibi's Life and Thought*, Trans. Yudian W. Asmin, *Philosophy of Islamic Law and Social Change*, Surabaya: Ikhlis, 1995), 68-69.

⁴¹ Abu Ishaq al-Syatibi, *al-Muwafaqat fi Usul al-Syari'ah* (Egypt: al-Syarq alAdna bi al-Musikay, tt), Juz. II, 6.

asceticism means abandoning all work and spending one's lifetime on the fruits of other people's labor. For Granada's already tough economy, this is a very heavy burden.

Conclusion

Andalusia, during the reign of the Bani Nasr (Abd al-Rahman I until the fall of Granada in 1492), was an interesting period in Islamic history, especially in legal, cultural, social and political contexts. During this time, the Islamic legal system, or what is known as sharia, played an important role in shaping the structure of society and government in the region. The Islamic legal system has had a significant impact in shaping the social structure in Andalusia. Islamic legal concepts, such as justice, peace and balance, are implemented in the daily lives of Muslim communities there. Institutions such as Islamic courts (Qadi), which were responsible for enforcing the law, became an integral part of the social structure and helped in resolving conflicts between individuals. Apart from that, the Islamic legal system also plays a role in shaping the political structure in Andalusia. Political leaders of the time, such as the Caliph of Cordoba, used Islamic law as a basis for building their government. The principles of Islamic law are used to create policies that regulate public life, such as taxation, trade and public administration. Furthermore, the influence of Islamic law is not limited to the political and social realm, but also has an impact on culture. Islamic ethics reflected in its laws, including values such as simplicity, justice, and tolerance, influenced the art, architecture, literature, and daily life of people in Andalusia.

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