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Janina Safran, Penn State University: “Linked States of Knowledge in the Islamic West (c. 800-1150)”\*

Links: Authority, Memory, and Text; Iberia, Asia, and Africa

The pursuit of learning by scholars committed to the idea of a universal truth and a singular community of believers was a critical factor in the development of a broadly common culture of Islamic knowledge and law and the spread of Arabic as the dominant language of scholarship in the Islamic world in the medieval period.1 Travel for learning linked scholars and their communities; with the knowledge travelers brought home and transmitted to their students orally and in the form of texts, they generated new hubs and networks of learning. The concept and practice of the “search for (religious) knowledge” *(ṭalab al-`ilm*) is well-known in the field of Islamic scholarship; networks of scholars and texts (including Sufi networks), the history of the book, and the development, curricula, and social, economic, and political significance of madrasas have been subjects of both general and more specialized historical analyses.2 Learning and knowledge practices in the Islamic East and West, broadly speaking, unfolded in ways both similar and different (for example, madrasas did not develop as important institutions of learning to the same extent in the West).3 This paper will explore the theme of linked states of knowledge across polities and communities by looking at the communication of legal knowledge and methods between the Islamic East and West from the perspective of the development of legal knowledge and practice in al-Andalus (Islamic

Iberia) in the ninth and tenth centuries and the integration of Saharan communities into the domain of

\*Please do not cite without permission from the author. I have not added diacritical marks to transliterated Arabic words to avoid distracting the reader.

1. For a general description see Sam I. Gellens, “The Search for Knowledge in Medieval Muslim Societies: A Comparative Approach,” in *Muslim Travellers: Pilgrimage, Migration, and the Religious Imagination*, ed. Dale F. Eickelman and James Piscatori (Berkeley, 1990), 50-65.
2. For example: George Makdisi, *The Rise of Colleges: Institutions of Learning in Islam and the West* (Edinburgh,

1981), Jonathan Berkey, *The Transmission of Knowledge in Medieval Cairo : A Social History of Islamic Education*

(Princeton, 1992), Michael Chamberlain, *Knowledge and Social Practice in Medieval Damascus, 1190-1350* (Cambridge, 1994), Daphna Ephrat, *A Learned Society in a Period of Transition : The Sunni "Ulama" of Eleventh Century Baghdad* (Albany, 2000), Johannes Pedersen, *The Arabic Book*, tr. Geoffrey French (Princeton, 1984). 3 George Makdisi, “The Madrasa in Spain: Some Remarks,” *Revue de l’Occident Musulman et de la Méditerranée* 15 (1973), 153-158.

Islamic law in the tenth, eleventh, and early twelfth centuries. The paper shows how “institutions” of learning were not, in this context, directly sponsored by the state but developed alongside political institutions and in relationship to them, and were fostered by, and contributed to, processes of social mobility and commercial expansion. The development of legal scholarship, more specifically, took place within a trans-regional network of learning and a framework of local judicial and legal practice under the aegis of the regime. The paper considers one example of material culture that played an important role in knowledge formation, discussing in broad strokes the emergence of books as a medium for the transmission of legal knowledge, and drawing attention to competing claims over the authority of books. The focus on books highlights how texts were not stable sources of authority and that standards of legal knowledge varied and were contested over their handling. Jurists in established urban centers asserted their authority according to a hierarchy of knowledge defined by their expertise against other jurists that did not conform to their standards; their claims for the priority of expertise were also tested by exigencies of practice, the usefulness of books, and their scarcity.

Al-Andalus, conquered by Berber and Arab Muslims in 711, developed into an independent polity governed by Umayyad dynasts that expressed their authority, over a period of nearly two centuries, in an evolving idiom in dialogue with Damascus, Baghdad, and Cairo, and administered rule with developing institutions common to other political centers. The Umayyad capital of Cordoba became an enduring political model in the Islamic West beyond the demise of the Umayyad dynasty in the early eleventh century. Andalusi jurists concerned with upholding Islamic legal norms and practices in Iberia participated in the development of the Maliki “school” of law in communication with jurists in North Africa, the Hijaz, Egypt, Syria, and Iraq, over generations.[[1]](#footnote-1) Cordoba emerged as the most important hub for learning in al-Andalus in the middle of the ninth century when the Umayyad Amir `Abd al-Rahman II determined that the judge of Cordoba, whom he appointed, should consult with a council of jurists of his appointment. The location of the most learned jurists of the region in the capital attracted students from other cities in al-Andalus and abroad who then returned home and disseminated their knowledge to their students. This early stage in the institutionalization of legal interpretation and practice is identified with a number of luminaries, among them Yahya ibn Yahya (d. 848), whose opinions and transmissions, passed on by their students and recorded in texts, guided subsequent generations. Yahya’s influence with `Abd al-Rahman II and his dominance over the other members of the council of jurists is legendary; he reportedly refused appointment as judge on the grounds that his role as adviser to the judge and critic of opinions of fellow jurists was of far greater benefit to the ruler and the community.

Yahya ibn Yahya’s biography speaks to the connectedness of knowledge and exemplifies the process of transmission of legal learning in the middle of the ninth century. Tenth-century sources, cited in Qadi `Iyad’s (d. 1149) twelfth-century biography, report on two important credentials for Yahya ibn Yahya’s status and authority (perhaps apocryphal).[[2]](#footnote-2) The first establishes a foundational link between his origins and Andalusi history: Yahya’s father was in Tariq’s army and participated in the conquest of al-Andalus. The second affirms his role as a vital link in the transmission of Malik’s knowledge: Yahya traveled to Medina and heard (and copied) Malik’s *Muwatta’* in the year Malik died (795) and (on a second visit) was with him when he died and attended his funeral. The biographies report that Yahya’s lineage was Berber (of a Masmuda tribe) and that his grandfather converted to Islam with the sponsorship of Yazid ibn `Amr al-Laythi – that is why he traced his lineage (through clientage) to the Banu Layth (an Arab tribe). Yahya’s identity as Berber is subordinate, in this account, to his association with the original Islamic history of al-Andalus and his identity as a transmitter of the *Muwatta’* and proponent of Malik’s opinions. His biography invites discussion of Arabic literacy and Islamic learning as an avenue of Berber (as well as other non-Arab) integration into a political system and economic sphere where Arabic and Islam were privileged. If Yahya’s father was a warrior, Yahya himself clearly earned an outstanding reputation as a scholar. His dedication to his studies (and the objective of travel for knowledge) is conveyed in an amusing anecdote about his attendance in Malik’s circle: One day someone announced that an elephant was passing by and all the students but Yahya rushed to see. Malik inquired why Yahya did not seem interested, given that there were no elephants in al-Andalus. Yahya replied that he had not traveled all the way from al-Andalus to see an elephant, but to see Malik and learn from him.

Yahya’s transmission of the *Muwatta’* marks an initial stage in the emergence of books as repositories of legal knowledge in the Islamic West. His recension became predominant in the Islamic West and the assertion that he heard it directly from Malik is important to its authority, although he also reportedly heard a recension of the text in al-Andalus; his reconciliation of the two versions, as recorded in his biographies, is an expression of his care in transmission. In the East he heard and learned from a number of scholars in the Hijaz and Egypt; in Egypt he heard *masa’il* from Ibn al-Qasim (d. 806), one of Malik’s disciples, and reportedly recorded ten “books” worth in writing. *Masa’il* are legal opinions given in response to brief questions; in this case, Yahya transmitted Malik’s opinions as conveyed to Ibn al-Qasim, in response to his promptings, as well as questions he himself posed to Ibn al-Qasim. Anecdotal accounts affirm his care in transmission, reporting Yahya’s commitment to reconfirm some opinions with Ibn al-Qasim when he realized that a fellow Andalusi scholar and travel companion had a variant transmission.[[3]](#footnote-3) When Yahya returned to Cordoba, he transmitted what he learned to students and he issued fatwas in response to legal questions on the basis of Malik’s opinions. Yahya was not alone in transmitting *masa’il* from Malik’s students, although his privileged position with the Amir may have contributed to the primacy of *masa’il* transmitted from Ibn al-Qasim in al-Andalus. Yahya’s transmissions, as well as transmissions by other Andalusis, from Ibn al-Qasim and some of Malik’s other disciples, were collected and collated by a Cordoban scholar of the next generation, Muhammad al-`Utbi

(d. 869). Al-`Utbi modeled his multi-volume work, *al-Mustakhraja*, on Sahnun ibn Sa`id’s *Mudawwana* (which he transmitted in Cordoba), and intended it as a complementary compendium of *masa’il* for use by contemporary jurists.[[4]](#footnote-4)

Travelers from the Islamic West seeking to hear the transmitted opinions of Malik and learn from the generations who followed him made Qayrawan a requisite stop in their journeys. Sahnun ibn Sa`id (776-854), as resident scholar, played an important part in putting that town on the itinerary. His comprehensive compendium of Malik’s opinions, reportedly formed in part on the basis of a transmission from Ibn al-Qasim to Asad ibn al-Furat (d. 828) and organized around legal topics, became a foundational or “mother” text of the developing Maliki madhhab in the West.[[5]](#footnote-5) Andalusi jurists consulted with Sahnun (and his students) in person on their way to or from the East and in writing.. They also transmitted opinions and texts of their own authoritative jurists to Qayrawani scholars. Thus after al-`Utbi transmitted Sahnun’s works in Cordoba, al-Utbi’s student Ibn al-Jarraz (d. 907-908) transmitted his *Mustakhraja* in Qayrawan. Abu Muhammad ibn Abi Zayd al-Qayrawani (922-996) may have reorganized the text of this transmission; he also put together his own complement to the *Mudawanna*, *al-Nawadir wa-l-Ziyadat*, drawing on transmissions of opinions and texts by Maliki jurists from East and West up through his own generation. He wrote, among other texts, a concise summary of Maliki doctrine, *al-Risala*, for the instruction of children and both *al-Nawadir wa-l-Ziyadat* and the *Risala* became foundational to Islamic learning in West Africa in later centuries. It should be noted that Qayrawan remained a center for Maliki learning under Fatimid (Ismaili) rule (in the tenth century), presided over by jurists such as Ibn Abi Zayd al-Qayrawani, Abu al-Hasan al-Qabisi (935-1012), and their junior Abū `Imrān al-Fāsī (974-1039).[[6]](#footnote-6) The city was overcome in the mid-eleventh century by the Arab nomadic invasions (Banu Hilal, Banu Sulaym, Banu Ma`qil).

Qayrawani jurists extended their influence not only along the coastal road but also along trade routes that extended across the Sahara. Anecdotal evidence from the tenth century (and later) places Qayrawanis in a number of entrepots in the Trans-Saharan trade network such as Sijilmasa and Aghmat and interest in commercial connections likely fostered interest in Arabic and Islamic learning among settled and nomadic Berber populations.[[7]](#footnote-7) The biography of Ḥammad ibn Yahya Abu Yahya al-Sijilmasi

(a contemporary of Sahnun’s) suggests this kind of association between commerce and learning. Qadi

`Iyad describes the man from Sijilmasa as an upright shaykh and a merchant and counts him among

Qayrawan’s men of learning. He reports Hammad was one of the first to bring the jurisprudence of Ibn al-Majishun (d. 827) to Qayrawan (Sahnun also studied with Ibn al-Majishun). He also observes that there were many errors in his texts. The translation of oral texts to written and the relationship between memory and writing were of practical concern for jurists concerned with the promotion of knowledge. Proper writing skills were a preliminary requisite in the circulation of texts and checking transmissions against each other became a way of ensuring accuracy. Qadi `Iyad retells a story about how Abu Maymuna Darras ibn Isma`il (d.968 or 969) of Fez, who studied with jurists in al-Andalus, Ifriqiyya (Tunisia), and the East, irritated an eminent Qayrawani jurist, Abu Bakr al-Labad, when going over together the latter’s transmission of the *Muwatta’*. They differed over al-Labad’s transmission of a particular hadith, which Abu Maymuna asserted differed from recensions he had heard in al-Andalus and Fez. Al-Labad asked his students to bring his copy of Ibn Wahb’s (d.812) recension, and a number of other texts, in order to check the letter of the word they disagreed about. His irritation increased as they examined the reams before them, until he finally accused Abu Maymuna of trying to be the “cock of the land.” A presumably shared interest in accuracy gave way to a clash of egos.

Jurists in Qayrawan were often consulted for their legal opinions (issued as fatwas) about the circumstances of Muslims in more remote regions where Arabic was not spoken and men literate in Arabic and Islamic learning might be few and far between. From the jurists’ perspective, the jurisdiction of Islamic law was requisite to being Muslim and to authentic transactions between individuals (such as marriages, divorces, partnerships, sales, and divisions of spoils). Exchanges of questions and answers suggest some of the practical challenges of establishing the domain of Islamic law in places where the ruler might not be Muslim, or where there was no appointed judge, or there were no qualified witnesses -- since “without *shahada* (lawful witness) there is no *hakam* (legal rule).” [[8]](#footnote-8) Questions also had to do with cultural practices, such as amulets and tattoos, and inter-tribal predation. A question about the language of supplication illustrates an accommodation of the circumstances of new and non-Arabic speaking Muslims in immediate terms: When Ibn Abi Zayd was asked whether a Berber man who does not know Arabic can say his informal prayers (*du`a’*) in Berber, he replied affirmatively, observing: “God understands all languages.”[[9]](#footnote-9) Perhaps a century later, the Cordoban jurist Ibn Rushd al-Jadd (d. 1126) did not quite uphold this perspective. In a written response to a question about someone who said Arabic language was not necessary (to the proper practice of Islam) he retorted: “this is a very ignorant person to say this. Let him repent of it. For truly, nothing is certain in matters of religion and Islam except in Arabic language. God says ‘In plain Arabic speech’” (Qur’an 26:195). When the questioner suggested that the person who made the statement was not ignorant, but rather someone who read hadith and *masa’il*, Ibn Rushd repeated his disdain and advised withdrawing from such a person until that person recognized the ill effect of someone like himself saying such things. [[10]](#footnote-10)

The qualifications Ibn Abi Zayd expected of a jurist who consulted his *Nawadir wa-Ziyadat* may have exceeded those who used the work in practice and our discussion shifts to contested use of books of legal learning, or the life of books outside the hands of their producers. Ibn Abi Zayd produced *alNawadir wa-l-Ziyadat* to bring together the *masa’il* of Malik and his disciples from various sources in order to facilitate their study and reference. He cautioned that the *masa’il* he collected needed to be studied with an authoritative teacher who could explain and evaluate the many differences of opinion among Malik’s disciples. The unqualified should not choose among them but follow the preferences of earlier scholars such as Sahnun, Asbagh, and `Isa ibn Dinar, and (following them) Ibn Mawwaz, Ibn `Abdus, and Ibn Sahnun. Ibn Abi Zayd asserted a relationship between training and text that was challenged by the autonomy of texts as material objects. In a fatwa he addressed a question that pushed him on this point: Is it permissible for a man who was not deeply learned but who was familiar with the important Maliki texts such as the *Muwatta’*, the *Mudawwana*, and the *Mukhtasar* to answer legal questions?[[11]](#footnote-11)

 The question, in its further elaboration, speaks to the practice of using compendia of *masa’il* as legal handbooks: if a man may, indeed, give a legal opinion (fatwa) on a case (*nazila)* by consulting the Maliki collections of opinions and looking for an opinion that corresponds to his case, does it matter whose opinion he follows if he finds a difference of opinion on the matter (among Malik’s disciples)? In that circumstance, should he give an opinion according to the preference (among the different opinions) of Sahnun (d. 854), Ibn Sahnun (d. 871), Ibn al-Mawwaz (d. 891) and others of similar authority?[[12]](#footnote-12) Ibn Abi Zayd agreed that if the man was asked about a case that corresponded to an opinion in the books he described, then he could give a fatwa based upon it; it did not matter if the opinion was that of Malik’s student Ibn al-Qasim (d. 806) or one of his peers, or of Sahnun or Asbagh (d. 840) (of the next generation), or the opinion of Sahnun’s son, or Ibn Mawwaz or Ibn `Abdus (d. 894) or someone like them (of their generation). If there was a difference of opinion (*ikhtilaf*) among Malik’s disciples, however, then he should (not simply choose but) follow the preference of a later authority. So, if Sahnun or Asbagh had a preference, or Ibn `Abdus, Ibn Sahnun, or Ibn Mawwaz had one, then the man’s fatwa should be based on that preference. Ibn Abi Zayd acknowledged this straightforward use of the “mother books” for issuing fatwas, particularly in a region where others were less qualified or belonged to a different “school” of law. His opinion confirms the authority of certain specific jurists of the generations preceding him and promotes a process of consensus building over generations of Maliki scholars. In this view, Ibn Abi Zayd echoes the point he makes in the introduction to *al-Nawadir wa-l-Ziyadat* that it was not appropriate for someone unqualified to choose among the differences of opinion of Malik’s students. Those without proper knowledge must follow the preferences of authorities like Sahnun, Asbagh and `Isa ibn Dinar and those who succeeded them such as Ibn al-Mawwaz, Ibn `Abdus, and Ibn Sahnun (or Ibn Abi Zayd himself).

Ibn Abi Zayd was asked whether a jurist should indicate the differences of opinion about a question to a petitioner for a fatwa and let him choose from among them.[[13]](#footnote-13) He replied that some of his contemporaries took this position: the petitioner for a fatwa was like a man who entered a mosque and found scholars such as Abu Mus`ab (d. 856) and Ibn Wahb (both Malik’s students) holding sessions; he could head toward any one of them and ask his question. In this view, acting according to the authoritative statement (s.*qawl*; pl. *aqwal*) of one of these jurists while they were alive, or choosing among their confirmed opinions after they died, was equivalent. Ibn Abi Zayd, however, held the view that only a jurist qualified to choose among statements should choose among statements for himself; someone not qualified should follow the preference of someone authoritative. In answer to the question, the jurist petitioned for the fatwa should choose among the different opinions on behalf of the petitioner.

Ibn Abi Zayd differentiated between the *muqallid*, who followed the authoritative opinions of the Maliki “school” as recorded and evaluated by scholars of previous generations, and the *mujtahid*, someone of the ranks of authoritative scholars, who could use his understanding of the transmissions of those opinions and their points of difference and similarity to choose among different opinions (or derive an opinion). The process of consensus building he promotes in emphasizing the authority of

“preferences” among previous generations is directed against a contemporary practice (of picking and choosing among the *aqwal* of Malik’s disciples). Subsequent Maliki jurists continued to address the proper use of Maliki “mother texts;” our attention returns to al-Andalus, where jurists in the Almoravid period also qualified the practice of *taqlid* (following the opinions in the *masa’il*) and affirmed expertise in the sources of jurisprudence in the evaluation of *masa’il*. These efforts were part of a larger campaign to reform the practice of legal interpretation on the basis of the transmissions of Malik’s opinions and those of his students through expertise in the methodology of *usul al-fiqh* (literally the “sources of jurisprudence”). In broad terms, the reform was directed to investigation of the underlying (and often unstated) sources and methods of the *masa’il* opinions with the view of better understanding and evaluating their differences, and against the application of independent reasoning (*ra’y*) (rather than examination of the sources) in order to resolve new or disputed legal problems.

The Almoravid establishment of a kingdom in the Far Maghrib (Morocco, Western

Algeria,Western Sahara, Mauritania) and construction of Marrakesh as its capital (c. 1070) fostered and was an extension of a progressive integration of nomadic Sanhaja tribes of North West Africa into the domain of Arabic-Islamic culture. In 1090, Yusuf ibn Tashufin, founder of the Almoravid kingdom of the Maghrib, began to conquer al-Andalus from the Taifa kings (regional dynasts who emerged after the collapse of Umayyad rule), starting with the kingdoms of Granada, Malaga, Baza, Seville, Murcia, and Almeria. Yusuf ibn Tashufin, and his son and successor `Ali, looked to Andalusi and Maghribi models and personnel in the establishment and development of their rule. A number of Andalusi scholars of the Almoravid era, following trends developing in the Taifa period, were engaged in deepening their knowledge of jurisprudence, interested in comparing and evaluating legal opinions among the Sunni

“schools” of law, and within the Maliki “school,” in light of the sources and principles of jurisprudence (*usul al-fiqh*). The interest in Maliki legal reform that would privilege scholars of a certain form and degree of learning coincided with an intensification of communication between al-Andalus, the Far Maghrib, and Saharan nomads and oasis communities, and, from the perspective of Andalusi reformers, the extension of their authority and a flow of knowledge from North to South. Reforming jurists contended with the authority of books and the men who possessed them and made use of them as they saw fit; this contest took place in a larger arena including communities where literacy in Arabic and access to men of learning, let alone books, were at issue.

Ibn Rushd al-Jadd dedicated his scholarship to the project of Maliki reform.[[14]](#footnote-14) Two of his fatwas, one in response to an inquiry in al-Andalus, the other from across the Straits, resonate with Ibn Abi Zayd’s of the previous century and are representative of a perspective on legal interpretation and practice that informs all his writings. In response to a question from Badajoz (al-Andalus), Ibn Rushd determined that someone who studied and used books like Saḥnun’s *Mudawwana* and al-`Utbi’s *Mustakhraja*, but was not trained in the “tools of of *ijtihad*” could only issue afatwa in response to a legal question on the basis of a properly transmitted opinion by one of the authoritative Maliki jurists. If the books recorded a difference of opinion among the Maliki jurists, then he could base his fatwa on the opinion of his preference, if he had knowledge of how to choose among transmissions.18 Ibn Rushd’s fatwa asserts a position against the practice of giving legal opinions on the basis of (limited) knowledge of the *masa’il* in cases where there is no clear direction in the “mother texts.” Ibn Rushd’s response to a question from Tangier asserts the same point that a *muqallid* cannot issue a fatwa on the basis on his own reasoning (*ra’y*) in fuller elaboration. The question prompting the fatwa reports divided opinion among men of learning in Tangier about using the “mother texts” to give legal opinions (fatwas) related, in part, to the challenges of administering law in remote areas. One group, arguing against the other, observed that the requirement that only someone with expertise in examining the sources can give a fatwa on a new case was unrealistic because there were regions that lacked such an expert and that were beyond the practical reach of such a jurist, but still needed someone to make legal decisions. Ibn Rushd was asked to mediate by clarifying the proper qualifications for someone to issue fatwas (to act as a *mufti*) and to provide a solution to two practical problems: that of a judge not qualified as a *mufti* in a region without a properly qualified *mufti*, and that of a governor who is presented with a complaint but does not have at hand a jurist of the proper qualifications to consult. His opinion takes into account the range of legal knowledge and expertise among men of learning. He insists that men without learning who have memorized statements by Malik and one or more of his students are not qualified to give fatwas, but acknowledges the practice of following those statements and transmitting them to others should questions arise where a statement is directly applicable, and when there is no one more qualified to ask. Ibn Rushd finds someone who has studied the *masa’il* and knows how to evaluate them qualified to issue fatwas according to the opinions of Malik and his disciples. (Many of Ibn Rushd’s writings, in fact, from fatwas to multi-volume commentaries, are dedicated to clarifying and evaluating the masa’il in terms of sources and methods, translating to text his methods of training, systematizing his analysis in the process, and facilitating choices among opinions). For cases where there is no clear stipulation in the Qur’an and Sunna and no opinion in the “mother texts,” Ibn Rushd asserts his conviction that a *mujtahid* (who knows how to evaluate and derive opinions through expertise in the sources ) must be consulted and issue opinions. If there was no *mujtahid* in the region then an opinion had to be sought from a *mujtahid* elsewhere.[[15]](#footnote-15) In this way, even the remotest Muslim communities must be bound to the centers of Islamic learning.

Ibn Rushd’s insistence on a hierarchy of knowledge was not bound by political “borders,” but the coincidence of interests of the (Almoravid) “state power” and the “religious establishment” is not irrelevant. Almoravid commitment to the counsel of Maliki jurists advanced the jurisdiction of Maliki law and promoted Maliki learning more extensively in West Africa than ever before. One might consider the history of the rise of the Almoravids and the establishment of their kingdom as a story of “linked states of knowledge.” The legendary story of the origins of the Almoravid movement (repeated in almost all narratives) describes a process of regional transformation that begins with a Sanhaji shaykh’s travel for pilgrimage and stop in Qayrawan, and his conversation with Abu Imran al-Fasi. The shaykh impressed upon the jurist his own ignorance of Islam and desire for knowledge, and described the ignorance of his people and their need for instruction and practical guidance in Islam (and Islamic law), setting in motion the arrival of a student of a student of Abu Imran’s among the Sanhaja of the western desert. The story describes a stage in the incorporation of nomadic tribes of the western Sahara, perhaps exposed to Islam through trade, into a network of knowledge fostered by travel (for trade, for pilgrimage, for learning). The Almoravid foundation of Marrakesh as capital of a kingdom in the Maghrib created a new center for learning that persisted after the fall of the Almoravids and fostered (and benefited from) scholarship in the other cities of their Maghribi domain. The establishment of their rule in al-Andalus deepened and expanded channels of scholarship, and the regime’s commitment to the rule of law drew more remote Muslim communities into the network of knowledge.

Conclusions

This paper presents a perspective on the domain of Islam in the medieval Islamic West as a human network of learning and scholarship that was horizontal, extending within and beyond political boundaries, and vertical, organized according to a hierarchy of knowledge. Linkages extended back in time and were carried forward by generations of students. Books figured as objects in the diffusion of knowledge and in the development of hierarchies of knowledge. Men of learning, like Ibn Rushd, claimed authority over their uses and meanings, and in the hands of scholars these were often contested and changed over time. Books as material objects circulated, and were used, however, in ways that scholars could not control. A radical response to the danger posed by a book might be its anathematization and destruction. [[16]](#footnote-16) More commonly, the interest in controlling or informing the use of books generated further writings, both more general and summary (for common circumstances of legal practice), and more specialized (for experts). Ibn Khaldun, writing at the end of the 14th century, observed the decline of *uṣul al-fiqh* in al-Andalus and the Maghrib and the spread of synthetic and summary texts (*mukhtasar*s). He attributed this to the decline of urban life (or civilization), along with other “crafts” and forms of knowledge, associated with the Christian occupation of most of the Iberian peninsula, and the collapse of dynasties in the Maghrib. This paper provides a quick view of an intensive period of interest in *usul alfiqh* among Western Malikis in the eleventh and twelfth centuries that grew out of and contributed to processes and dynamics of differentiation in legal knowledge and practice. The spread of summary legal works in the thirteenth and fourteenth centuries reflects an expansion in literacy and education and an extensive geographical commitment to Maliki law in north and west Africa; the decline of expertise in *usul al-fiqh* that Ibn Khaldun observes may, to some extent, have been relative to this expansion; it may also reflect the end of an initial wave of revisiting the “mother texts” and investigating the *masa’il* according to the methods of *usul al-fiqh*.

The paper shows the interconnectedness of informal (rather than state) institutions of learning across political divides and shows how networks of learning provided one means of promoting (Arabic) literacy and a comprehensive domain of (Islamic) law. A broader question applicable to other historical contexts is to consider how books contribute to the hegemony of an intellectual elite and how they undermine it. The question must take into account material constraints on the production of books (such as access to parchment, papyrus or paper and the act of copying) and evidence of the commodification of books and the development of book markets. Discussions about the use of “mother texts” in the tenth, eleventh, and twelfth centuries likely referred to a circumscribed stratum of people who had access to these substantial tomes – although Ibn Rushd’s fatwa also speaks to the continued importance of memorized knowledge. Analysis of books in private libraries in West Africa from 1625-1925 suggests that individual scholars collected synoptic and pedagogic works on Islamic law.[[17]](#footnote-17) This may speak to difficulties in obtaining larger, comprehensive works, as well as reflect changes in knowledge practices, and may also suggest an enduring dependence on (trans-regional) knowledge networks for expertise.

Key terms/models/concepts

* Centrality of personal bonds in the definition and expression of political authority, in the practice of law, in the conduct of economic transactions, in social organization, as well as in the transmission of knowledge
* Importance of travel and the pursuit of trans-regional connections
* Knowledge as a link to the past, to contemporaries in an “imagined community,” and to the future
* Knowledge as a way of transforming the present (bringing people into the imagined community) - Dynamics between memory and writing, writing and thinking, reading and knowledge

1. María Luisa Avila finds that of 527 biographies recorded in al-Khushani’s (d. 971) biographical dictionary of legal scholars and hadith transmitters of the ninth and tenth centuries, *Akhbar al-Fuqaha’ wa-l- Muhaddithin*, 225 relate their subjects’ travel to the East in search of knowledge; see “The Search for Knowledge: Andalusi Scholars and Their Travels to the Islamic East,” *Medieval Prosopography* 28 (2002), 125-139. [↑](#footnote-ref-1)
2. Qadi `Iyad, *Tartib al-Madarik*, ed. Muhammad Salim Hashim (Beirut, 1998), 1: 310-318. Qadi `Iyad served as judge of Ceuta under the Almoravids and was an active jurist consult, frequently in correspondence with Ibn Rushd, Ibn al-Hajj, and other Andalusi jurists. See Camilo Gómez-Rivas, “Qadi `Iyad (d. 544/1149)” in *Islamic Legal*

*Thought: A Compendium of Muslim Jurists*, ed. David S. Powers, Susan A. Spectorsky, Oussama Arabi (Leiden, 2013), 323-338 and Delfina Serrano, “Legal Practice in an Andalusi-Maghribi Source from the Twelfth Century CE:

The Madhahib al-Hukkam fi Nawazil al-Ahkam,” *Islamic Law and Society* 7 (2000), 187-234.. [↑](#footnote-ref-2)
3. Al-Khushani, *Kitab al-Qudat bi-Qurtuba (Historia de los jueces de Córdoba)* ed. and tr. Julián Ribera (Madrid, 1914), 62-63; Spanish tr. 77-79. [↑](#footnote-ref-3)
4. See Ana Fernández Félix’s study of al-Utbi’s Mustakhraja, *Cuestiones legales del Islam temprano: La `Utbiyya y el proceso de formación de la sociedad Islámica Andalusí* (Madrid, 2003). [↑](#footnote-ref-4)
5. See Jonathan E. Brockopp’s biography, “Saḥnūn ibn Sa`īd (d. 240/854)” in *Islamic Legal Thought*, 65-84. [↑](#footnote-ref-5)
6. See Hady Roger Idris, “Deux jurists kairouanais de l’epoque zȋrȋd: Ibn Abȋ Zaid et al-Qâbisȋ (Xe-XIe siècle),”

*Annales de l’Institut d’Études Orientales* 12 (1954): 122-198. Ibn Abi Zayd was of the Nafzawa Berber tribe, Abu Imran al-Fasi of the Zanata. All three jurists studied in the East; Qadi `Iyad refers to Ibn Abi Zayd as “little Malik”(“Malik Junior”); Abu Imran al-Fasi (from Fez) and Abu al-Hasan al-Qabisi (from Gabes) were trained in Maliki masa’il, hadith and Quran, usul al-fiqh and kalam (theological disputation). [↑](#footnote-ref-6)
7. Ghislaine Lydon suggests that “adherence to Islam and its code of law favored the development of both scholarly and commercial networks that linked Muslims across the desert to the world beyond” (*On Trans-Saharan Trails*, 9) . [↑](#footnote-ref-7)
8. Ibn Abi Zayd, *Fatawa Chaeikh Abu Mohammed Abdellah ibn Abi Zayd al-Qayrawani*, ed. Hamid Lahmer (Beirut, 2004), 215-216. [↑](#footnote-ref-8)
9. Ibn Abi Zayd, *Fatawa Chaeikh Abu Mohammed Abdellah ibn Abi Zayd al-Qayrawani*, ed. Hamid Lahmer (Beirut, 2004) , 103-104. It should be noted that the questioner did not ask about ritual prayer. [↑](#footnote-ref-9)
10. *Fatāwā Ibn Rushd*, ed. al-Mukhāar ibn al-Ṭāhir al-Talīlī (Beirut, 1987) 1:545. [↑](#footnote-ref-10)
11. Wansharisi Mi`yar, 10:40-41 [↑](#footnote-ref-11)
12. My rendition of the question elaborates a bit from the answer to clarify what is being asked. The literal translation is more compressed: “Should he give his fatwa according to Malik’s opinion in these collections or the opinion of one of Malik’s disciples or according to the preferences of Sahnun, Ibn Sahnun, Ibn al-Mawwaz, and others like them?” [↑](#footnote-ref-12)
13. Al-Wansharisi, Mi`yar, 10:41 [↑](#footnote-ref-13)
14. See Delfina Serrano Ruano, “Ibn Rushd al-Jadd (d. 520/1126)” in *Islamic Legal Thought*, 295-322. 18 Al-Wansharīsī, *Mi`yar*, 10: 43-45. [↑](#footnote-ref-14)
15. Al-Wansharīsī, *Mi`yar*, 10: 30-35. [↑](#footnote-ref-15)
16. See Janina Safran, “The Politics of Book Burning in al-Andalus,” *Journal of Medieval Iberian Studies* 6 (2014), 148-168. [↑](#footnote-ref-16)
17. See Bruce Hall and Charles C. Steward, “The Historic ‘Core Curriculum’ and the Book Market in Islamic West Africa,” in *The Trans-Saharan Book Trade*, ed. Graziano Krätli and Ghislaine Lydon (Leiden, 2010), 109-174. [↑](#footnote-ref-17)