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LAW AND PIETY: A CORDOVAN *FATWĀ*

Manuela Marín

The Cordovan *faqīh* Abū al-Aṣbagh 'Īsā b. Sahl b. 'Abd Allāh al-Asadī (413-486/1022-1093) is a very characteristic example of Andalusian *'ulamā'* in action. He was born in Jaén but studied and lived in Cordova as well as in other cities of al-Andalus. His profesional career was always linked to judicial activities: in Toledo and Cordova he was secretary to the *qāḍī*; *mushāwar* (*qāḍī*'s legal adviser)[1] in Cordova and, finally, *qāḍī* in the Maghrib and in Granada. His biographers emphasize his profound knowledge of the mechanisms of Islamic justice and his particular interest in jurisprudence.

Ibn Sahl was the author of an important legal work entitled *al-Aḥkām al-kubrā* which, fortunately, is still extant. Although the entire work has not yet been published the Egyptian professor Muḥammad 'Abd al-Wahhāb Khallāf has in recent years been publishing selections of these *aḥkām*. With such partial editions and the manuscripts of the original work available to us, we are in a position to appreciate its great importance as a source of knowledge not only of legal administration in al-Andalus, but also of the kinds of problem that affected Andalusian society in general. Indeed, Ibn Sahl in his work assembled a whole series of legal cases arising in his own time as well as in the 3rd/9th and 4th/10th centuries, all of which had been submitted for opinions to the most illustrious jurisprudents of each of these earlier periods. As will be appreciated, it is not possible to study the social life of the Umayyad and Taifa periods without recourse to this fundamental work. A reading of it clearly shows the continuity of certain problems which existed within the core of Islamic society from early times and which, in some cases, still prevail today.

From among the documents published by Dr Khallāf, I have selected the subject matter of a *fatwā* that poses several problems of a religious and social nature. It is contained in the volume entitled *Wathā'iq fī shu'ūn al-'imrān fī al-Andalus: al-masājid wa-l-dūr* (Kuwayt, 1983) and is the third of twenty-four *masā'il* that comprise the work.

I propose to examine the origin and development of the subject matter of this *fatwā* and the circumstances surrounding it. First of all, Ibn Sahl selects the case submitted for consideration by the judge, who accepts jurisdiction and then solicits the opinion of four legal advisers, or *mushāwarūn*. Ibn Sahl carefully transcribes the four opinions, but unfortunately, there is no way of knowing the opinion on which the judge decided the issue because Ibn Sahl makes no mention of this.

The circumstances out of which the case in question arose date from the first half of the 5th/11th century, during the lifetime of Ibn Sahl. The cause of action was as follows. An inhabitant of Cordova, Sulaymān al-Shaqqāq, was a follower of Abū al-'Abbās Aḥmad b. Abī al-Rabī' al-Ilbīrī ('of Elvira'), a

1. Ibn Bashkuwāl, *K. al-Ṣila* (ed. F. Codera, Madrid, 1882-83), no. 939.

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khaṭīb, or preacher in the Great Mosque of Cordova (d. 446/1054).[2] Historical and biographical sources offer no other information on Sulaymān. We know only that one of his neighbours made a complaint to the judge that he was calling [people] to prayer from the roof of the mosque in the middle of the night and praying aloud until dawn. The complainant alleged that this constituted a great nuisance for the neighbourhood.

As already mentioned, jurisdiction in the case was accepted by Abū 'Alī Ḥasan b. Muḥammad b. Dhakwān (d. 451/1059),[3] a well-known judge who belonged to the Banū Dhakwān, an outstanding family of Berber origin. At that time, Abū 'Alī was also superintendent of the market (*muḥtasib*).

Abū 'Alī Ibn Dhakwān requested the opinions of various legal advisers before passing judgment. Of these, Ibn Sahl takes four, which will be studied below. To take legal opinions was a common practice in al-Andalus, where the post of legal adviser (*mushāwar*) was part of a long-standing tradition.[4]

Ibn Sahl, as already noted, does not record the judge's ruling after receiving his advisers' opinions. This is regrettable, especially since, of the four opinions, two are favourable to the defendant and two to the complainant. However, I am not as concerned to know the outcome of the case (even though it adds a touch of suspense to the story) as I am in examining the opinions and analysing them in their social and religious contexts.

First, Ibn Sahl transcribes the two opinions favourable to the complainant. Of these, one emanates from Abū Muḥammad 'Abd Allāh b. Yaḥyā b. Aḥmad, known as Ibn Daḥḥūn (d. 431/1039),[5] a Cordovan jurisprudent famous for his knowledge of the Mālikī *madhhab*, and an authority on *fatāwā* and the drafting of contracts. His answer was brief, concise, and unfavourable to Sulaymān al-Shaqqāq: in his submission, Sulaymān must immediately desist from his nocturnal activities and follow the precepts for prayer established by devout predecessors, since any contrary practice (*khilāf*) is in itself an evil.

The second opinion favourable to the complainant was that of Abū al-Muṭarrif 'Abd al-Raḥmān b. Sa'īd b. Jurj (d. 439/1047).[6] This native of Elvira was, like Ibn Daḥḥūn, *mushāwar* in Cordova. Besides his interest in legal questions, his biography reveals that he was given to supererogatory prayer and to pious expression of his remembrance (*dhikr*) of God. In spite of this, he did not consider the nature of the pious expressions of Sulaymān al-Shaqqāq correct. His opinion is somewhat more elaborate than that of Ibn Daḥḥūn. It begins by stating the same principle: the Muslim community must follow in the steps of their pious predecessors and whatever deviates from this path is to be

2. See his biography in Ibn Bashkuwāl, *Ṣila*, no. 110.
3. Biography in Ibn Bashkuwāl, *Ṣila*, no. 309 and Ibn Sa'īd, *al-Mughrib fī ḥulā al-Maghrib* (ed. S. Ḍayf, Cairo 1953-55), I, no. 102. See also I. 'Abbās, 'Banū Dhakwān wa-Ibn Zaydūn', in *Dirāsāt fī al-adab al-Andalusī* (Tunis, 1978), pp. 65-66, and M.J. Viguera, 'Los jueces de Córdoba en la primera mitad del siglo XI (Análisis de datos)', *Al-Qanṭara* V (1984), 123-145.
4. See my article 'Shūrá et ahl al-shūrá dans al-Andalus', *Studia Islamica*, LXII (1985), 5-24.
5. Biography in Ibn Bashkuwāl, *Ṣila*, no. 585.
6. Biography in Ibn Bashkuwāl, *Ṣila*, no. 703.

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condemned. In support of this opinion, Ibn Jurj adduces three authoritative precedents, which are as follows:

(1) According to Mālik b. Anas, Abū Salama saw a man standing in front of the *minbar*, praying and raising his hands. Abū Salama disapproved of this practice, saying; 'Do not perform the *taqlīṣ* of the Jews'. When asked what he understood by *taqlīṣ*, Abū Salama answered, 'The raising of the voice in prayer of supplication (*du'ā'*) and the raising of the hands'.

As a personal comment, Ibn Jurj adds that if this action was condemned by Mālik and by Abū Salama when performed during the day, there would be all the more reason to condemn it when performed at night. Ibn Jurj insists that it would be more appropriate were Sulaymān to pray at home or silently in the mosque.

(2) Also according to Mālik, Tamīm al-Dārī asked the Caliph 'Umar b. al-Khaṭṭāb permission to pray, to tell edifying tales (*qiṣaṣ*) and to give expression to remembrance of God (*dhikr*) before the people. The Caliph refused, and, when Tamīm insisted, the Caliph suggested that what he really desired was for people to recognize him. Mālik considered the telling of edifying tales (*qiṣaṣ*) an evil innovation (*bid'a*).[7]

(3) The last authority quoted by Ibn Jurj is the famous Egyptian Mālikī, 'Abd Allāh b. Wahb (d. 197/812), whose teachings were widely known in al-Andulus.[8] Ibn Wahb rules that no call to prayer must be made before dawn.

Let us now examine the two opinions favourable to Sulaymān al-Shaqqāq. Both are more extensive than the previous ones and develop the matter in greater detail. The first is that of a *faqīh* of Maghribī origin, Abū 'Alī Ḥusayn b. Muḥammad b. Sulaymān al-Masīlī (d. 431/1039)[9] whom the Caliph Sulaymān b. Ḥakam al-Musta'īn (403-407/1013-1016) appointed responsible for the *shūra*, or *consilium*, of Cordova. Al-Masīlī bases his opinion on the Qur'ān and on Prophetic Tradition: he expressly quotes several Qur'anic verses (xxxiii:35, 41; ii:152) and cites the Prophet's example to confirm the benefit of praying at any hour and in any place. As a result, he states that what Sulaymān al-Shaqqāq had done was good and commendable. Moreover, al-Masīlī adduces other famous precedents: in Baṣra, 'Urwa b. Udhayna used to get up at night and walk along the road, shouting and haranguing people with Qur'anic verses (vii:95-96), and then pray until dawn. Al-Masīlī comments that this type of pious effort was not obligatory for everyone but only for those capable of making an extra effort.[10]

Al-Masīlī stresses the example of these pious men and ascetics who in early Islamic settlements (*amṣār*) dedicated themselves to reading the Qur'ān in

7. The same tradition, in Ibn Abī Zayd, *K. al-Jāmi' fī al-sunan wa-l-ādāb wa-l-maghāzī wa-l-ta'rīkh* (ed. M. Abū al-Ajfān and 'U. Baṭṭīkh, Beyrout, 1985), p. 164.

8. See my article 'Los ulemas de al-Andalus y sus maestros orientales (93-350/711-961)', *Estudios Onomástico-biográficos de al-Andalus*, III (Granada, 1990).

9. Biography in Ibn Bashkuwāl, *Ṣila*, no. 328.

10. To emphasize this comment he adduces one of the Prophet's *ḥadīth* disapproving of al-Ḥawlā' bint Tuwayb's nightly vigil (see the references of this *ḥadīth* in Khallāf's edition of Ibn Sahl, p. 59).

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public as well as to giving expression to remembrance of God (*tadhkīr*) and admonishing the people. For all these reasons, his opinion was favourable to Sulaymān al-Shaqqāq, although, at the end of his opinion, he expressed a certain reservation: no-one should be allowed to harm another by word or by deed. However, at the same time addressing himself to the *qāḍī*, he states that 'No-one doing what you have mentioned, should be censured'. Moreover, al-Masīlī considers it improper for the case to have been brought in the first place for the judgment of the judicial authority (*sulṭān*).

The fourth and last response was that of Muḥammad b. 'Attāb b. Muḥsin (383-462/993-1069),[11] one of the most important *muftīs* in Cordova. He was only thirty-one years old when, in 414/1023, he was placed in charge of the *shūra*, or consultative council, of Cordova. Ibn 'Attāb brings together a profound knowledge of legal techniques (he was an expert in drafting documents) as well as an extensive knowledge of Prophetic Tradition and historical facts. A man of ascetic character, modest and quiet, he refused on several occasions to accept the post of *qāḍī* offered to him. All of this is well reflected in his answer to the case of Sulaymān al-Shaqqāq.

Ibn 'Attāb takes a clear stand from the beginning of his reply: the only thing to be forbidden in this case, as a material fact, was Sulaymān's going up on to the roof of the mosque, since there was a danger that it could deteriorate. Like al-Masīlī, Ibn 'Attāb resorted to Qur'anic quotations that confirm the benefit of mentioning God. However, Ibn 'Attāb's text is directly addressed to the very same *muḥtasib*, Abū 'Alī Ibn Dhakwān: 'As regards the call to prayer during the night and the insistence on *du'ā'*, has the *muḥtasib* not heard the word of God: "Do not reject those who implore their Lord in the morning and at night, desiring [to see] His face"?'[12]

Along with the Qur'ān, Ibn 'Attāb based his argument on Prophetic Tradition,[13] and on the pronouncements of Mālik b. Anas as well as on those of the Andalusian *faqīh* 'Abd al-Malik b. Ḥabīb. Of the two traditions based on Mālik's authority, the second one—with which Ibn 'Attāb's opinion ends—is conclusive: in Mālik's time there was the case of a man whose next-door neighbour, an ironmonger, made it impossible for him to sleep at night because of the noise he made at his forge. Mālik was consulted on this problem and gave the opinion that the ironmonger should not be forbidden to continue his work during the night. So Ibn 'Attāb states that there is all the more reason for a person not to be forbidden to get up in the middle of the night to call to prayer and perform *du'ā'*.

The text I have just summarized poses a series of questions related to religious practices and their social repercussions. At a first glance, it seems to be no more than an anecdote, a simple affair between neighbours. However, closer analysis shows that in the last resort, there exists a matter of primary

11. Biography in Ibn Bashkuwāl, *Ṣila*, no. 1077.

12. Qur'ān, vi:52. Other Qur'anic quotations by Ibn 'Attāb come from xxiv:30 and xiii:28.

13. Ibn 'Attāb quotes a *ḥadīth* according to which the Prophet said: 'Bilāl calls to prayer at night: eat and drink until Ibn Umm Maktūm calls' (A.J. Wensinck, *Concordance et index de la tradition musulmane*, I (Leiden, 1936), p. 74).

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importance regarding the meaning of public and private piety in Islam. The judge must have understood it as such, or perhaps he did not trust his own knowledge (which, according to biographical sources, was rather limited). Whatever the reason, he solicited the legal opinion, or *fatwā*, of each of four famous *fuqahā'* in whose replies we find a whole repertory of doctrinal and ritual matters which I propose to analyse.

Within the constraints of a short paper, it is not possible to deal exhaustively with all these matters, some of which merit a much more extensive study. This is the case with the first matter to appear in Ibn Daḥḥūn's reply: his confirmation of the primary importance of tradition and the intrinsic evil of deviation from tradition, which has been the subject of innumerable writings and still remains one of the most controversial questions within the domain of the study of Islam.[14] The condemnation of innovations (*bida'*) seems to characterize Islamic orthodoxy in the field of dogma as well as in that of ritual practices,[15] which is clearly reflected in the two opinions unfavourable to al-Shaqqāq: on the one hand, they emphasize the basic principle of the need to follow precedents accepted as *sunna*; on the other hand, concrete examples are offered to confirm this general thesis. The opinions favourable to Sulaymān also follow this very same procedure: their approval of the inconvenienced neighbour's conduct is equally based on the existence of famous examples—on precedents which, in some cases, coincide with those of the contrary opinion. Thus, both parties use traditions attributed to Mālik b. Anas in order to give a diametrically opposed opinion.

Among the reprehensible innovations, Ibn Jurj offers two in particular that are related, in some way, to Sulaymān al-Shaqqāq's activities: raising his hands in prayer and the recounting of anecdotes (*qiṣaṣ*). The first of these innovations gave birth to a great polemic,[16] the effects of which have survived up to the present. It is important to note that the tradition attributed to Abū Salama and transmitted by Mālik had been circulated fairly extensively in al-Andalus from early times.[17] As for the second innovation condemning the activity of the *quṣṣāṣ*, this also has been a point of controversy from very early times. Both of these innovations have had fervent detractors as well as supporters.[18]

Ibn Jurj compares Sulaymān's attitude with that of those who practise the innovations in question. However, he does not question the genuineness of his feelings, so much as their expression in public. If Sulaymān had prayed at home or in the mosque without attracting attention, Ibn Jurj would have approved of it. We must remember that he himself was a man dedicated to

14. See A. Banani and S. Vryonis (eds.), *Individualism and Conformity in Classical Islam* (Wiesbaden, 1977).

15. See M.I. Fierro's introductory study to her edition of Ibn Waḍḍāḥ's *K. al-Bida'* (Madrid, 1988), pp.92ff.

16. See M.I. Fierro, 'La polémique à propos de *raf' al-yadayn fī al-ṣalāt* dans al-Andalus', *Studia Islamica*, LXV (1987), 69-90.

17. M.I. Fierro, *Bida'*, p. 108, quotes this same tradition as coming from the *'Utbīyya* by Muḥammad b. Aḥmad b. 'Abd al-'Aziz al 'Utbī (d. 255/869) and collected as well by al-Ṭurṭushī (d. 520/1126).

18. See the introductory study by M.L. Swartz in his edition of *K. al-Quṣṣāṣ* by Ibn al-Jawzī (Beirut, 1986) and also his bibliography.

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prayer and *dhikr*. In my opinion, a religio-social conflict originating in early Islam is reflected here: the tension between public and private piety. The existence of an Islamic othodox practice perfectly regulated for the expression of pious sentiments does not seem at first to have provided for more personal forms of relationship with the divinity. But it is not necessary to recall the existence of a powerful and original current of mysticism in Islam to confirm the existence of more individual, but always orthodox, practices of praying. Throughout the text on which I have been commenting, the term *du'ā'* appears with a certain frequency: Sulaymān al-Shaqqāq is accused of performing this type of innovation from the roof-top of the mosque.

I do not intend to make a detailed analysis of *du'ā'* as an expression of piety.[19] But I do wish to stress how old these invocations are[20] and point out their ritualization in very concrete cases, such as the prayer for rain (*istisqā'*).[21] However, this process of ritualization is not complete: the prayer of supplication (*du'ā'*) almost always leaves a rather wide margin of freedom for the suppliant to choose the text to be recited as well as the place and time of the invocation. The same can be said of *dhikr*: no standard exists to regulate and delineate it.

This lack of regulation is what produces attitudes like that of Sulaymān al-Shaqqāq. If his neighbours had complained only of the disturbance, the *fuqahā'* in favour of Sulaymān as well as those against him would have totally grasped the heart of the problem. Without exceeding the limits of orthodoxy, the matter in question presents as an opposition between the public function of jurists and the private concerns of pious men,[22] between the existence of a religious law regulating all possibilities of human expression and the need to formulate these expressions in a personal way.

The *fuqahā'* favourable to Sulaymān are also in favour of a deep-rooted tradition: that of those who dedicate themselves to exhorting the Muslim community, reminding them of the inevitability of the 'Final Hour'. The homilies of many of the first recounters of edifying tales (*quṣṣāṣ*)—or those attributed to them[23]—insist on the futility of worldly goods and the need to prepare oneself for the coming of the Last Judgment. Al-Masīlī mentions these kinds of homily or cautionary reminder in his reply to the judge Ibn Dhakwān, as an example justifying his opinion in favour of Sulaymān. However, as I have already mentioned, there also exists a tradition contrary to the activities of *quṣṣāṣ* especially when they are carried out in the mosque.[24]

These conflicting opinions are well reflected in the two contrasting opinions

19. On this theme see my introduction to the publication of Ibn Bashkuwāl's *K. al-Mustaghīthīn bi-llāh* (Madrid, at press) and the bibliography therein.

20. See the examples given in D. Sourdel and J. Sourdel-Thomine, 'Une collection islamique ancienne de textes de prières', *Recherches d'Islamologie. Recueil d'articles offert à Georges C. Anawati et Louis Gardet* (Louvain, 1977), 285-294.

21. Cf. *EI*² s.v. *du'ā'* (L. Gardet), and the interesting interpretation by N. Abū-Zahra, 'The Rain Rituals as Rites of Spiritual Passage', *IJMES*, 10 (1988), 507-529.

22. Cf. J. Schacht, 'Theology and Law in Islam', in G.S. von Grunebaum (ed.), *Theology and Law in Islam* (Weisbaden, 1977), pp.8-9.

23. Cf. Ibn al-Jawzī, *Quṣṣāṣ*, chapter 9.

24. Ibn Abī Zayd, *K. al-Jāmi'*, p. 164, quoting the opinion of Mālik b. Anas.

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offered by the *fuqahā'* of Cordova in response to the consultation requested by Ibn Dhakwān. On the one hand, we witness the existence of a concept of public piety expressed mainly in the communal liturgical prayer (as well as in all the *'ibādāt* (religious observances) regulated by a religio-legal standard: fasting, alms, pilgrimage, etc.). The need for a more personal devotion is fulfilled in accordance with this concept of piety, free from excess and commotion: Ibn Jurj, be it noted, agreed with prayer at home or in the mosque. On the other hand, in the nature of things, the very same piety of a private nature leads in two different directions. One, of which we have abundant evidence for the period here referred to, reinforces the individual nature of one's relationship with God and may progressively isolate the person from his social context, thereby leading him to cultivate an all-absorbing devotion.[25] Although I intend to return to this point later, I would point out here the occurrence in many biographies of eminent Andalusians of the period in question, known for their ascetism and piety, of terms and expressions suggestive of withdrawal from the world such as *'uzla, inḥirāf 'an al-dunyā, mutaṣāwin, nabadha al-dunyā, taraka al-dunyā* and, above all, *munqabiḍ al-dunyā*. This terminology—which is not unique to al-Andalus—is used in reference to many *'ulamā'* who cannot be categorized as mystics: they are, more than anything, exremely pious men dedicated to fasting and prayer.

A second approach, which also derives from a more personalized but activist concept of piety in that it does not conform closely to established norms, renounces the self-imposed retreat of the ascetic. In consequence, religious feeling is expressed in acts of a more public and collective nature: exhortations to the community, public readings of the Qur'ān, meetings in the mosques, and so on. The protagonist of these activites, as we have seen in the examples offered by the Cordovan *mushāwarūn*, is usually someone who takes it upon himself to warn Muslims of the need to remember God and who wishes to put into practice the Islamic precept of *al-amr bi-l-ma'rūf wa-l-nahy 'an al-munkar* ('the promotion of good and prohibition of the objectionable'). In general, this kind of activity was not greatly appreciated by the *fuqahā'*: Mālik b. Anas himself disapproved of public readings of the Qur'ān in the mosques.[26] This position can easily be explained by the suspicion attaching to certain expressions of exaggerated religious fervour;[27] but we must not forget, either, the possibilities of rebellion against the system likely to be caused by activities of this kind.

One of the opinions favourable to Sulaymān al-Shaqqāq contains a comment to which I would draw special attention. Al-Masīlī states not only that Sulaymān must not be censured for his devotion, but also that it was a mistake to proceed to trial of such a matter before a judge. We may wonder what al-Masīlī's intention was in making the comment. It may be that he did not believe it to be a matter so important as to require judicial intervention;

25. Cf. F. Rosenthal, '"I Am You"—Individual Piety and Society in Islam', in Banani, A. and Vryonis, S. (eds), *Individualism and Conformity in Classical Islam*, p. 54.
26. Ibn Abī Zayd, *K. al-Jāmi'*, p. 164.
27. See for example the case of Yaḥyā b. 'Umar in al-Mālikī, *Riyāḍ al-nufūs* (Beirut, 1983), I, 493-5.

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but, if such was the case, I incline to the view that he would not have considered it necessary to offer all the evidence and precedents included in his reply in favour of the accused. I am inclined to believe that al-Masīlī, in this case, was posing another of the basic questions that arise from the study of our *fatwā*: the relationship between political power and religious power. In his *fatwā*, al-Masīlī seems to indicate that a matter directly related to individual piety, if open to contradictory opinions, does not come within the *qāḍī*'s jurisdiction: a discussion among *'ulamā'* would have sufficed to sanction Sulaymān al-Shaqqāq's conduct or not.

It is not possible to generalize about the stand of scholars in the face of the political power; this greatly depends on the circumstances prevailing at the time and place concerned.[28] As regards the case under consideration, we must not forget the historical situation in which the city of Cordova was placed at the beginning of and during the first half of the 5th/11th century: the fall of the Umayyad Caliphate was attended by a series of disorders and civil strife that was not to end until Abū al-Ḥazm Jahwar b. Muḥammad rose to power in 422/1031. During this turbulent period, the central political power had lost both its legitimacy and its control on society: caliphs rapidly succeeded one another within short periods of time, and the city became the scene of plundering, massacre and destruction.

I have already noted the existence of a tendency to retreat, or withdrawal (*inqibāḍ*), among scholars whose biographies have been preserved in Andalusian sources. This retreat may well reflect a personal search for perfection; but, at times, it is perfectly clear that it is a question of an *inqibāḍ 'an al-sulṭān wa-aṣḥābi-hi* ('retreat from the ruler and his entourage'). This stance did not necessarily indicate an isolation from society as a whole; it may, rather, have been indicative of a stand on the part of the religious community in the face of interference by civil authority.[29] When the latter, moreover, had lost its legitimacy and was open to the highest bidder, it would have been even more pointless to grant it competency in matters affecting only the sphere of personal religious sentiment. This could possibly be the correct interpretation of al-Masīlī's reply contained in the *fatwā* requested by judge Ibn Dhakwān.[30]

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28. See my article 'Ciencia, enseñanza y cultura en la ciudad islámica', *Actas del Simposio La Ciudad Islámica* (Zaragoza, 1990) and two recent contributions by R. al-Sayyid and D. Krawulski in the Lebanese journal *al-Ijtihād*: 'Al-Fiqh wa-l-fuqahā' wa-l-dawla' (3 (1989), 129-60): 'Al-Sulṭa wa-l-shar'iyya' (3 (1989), 101-127).

29. See I.M. Lapidus, 'The Separation of State and Religion in the Development of Early Islamic Society', *IJMES*, 6 (1975), 363-85.

30. An earlier version of this paper was presented at the Conference 'The Making of a *fatwà*', Granada, 1990.