Book Review


Adday Hernández
CSIC – Instituto de Lenguas y Culturas del Mediterráneo y Oriente Próximo (ILC)
(adday.hernandez@cchs.csic.es)

This is a high-quality translation of the Muwaṭṭaʾ, not only because the translators are renowned scholars in the field of Islamic studies but also—and mainly—because the participation of Mohammad Fadel, who specializes in Islamic law, ensures the accuracy of the terminology employed.

This English translation of the Royal Moroccan Edition of the Muwaṭṭaʾ responds to a series of initiatives started in Morocco aimed at producing academic English translations of the ummahāt (foundational texts) of the Mālikī school of law. Since the author of the Muwaṭṭaʾ, Mālik b. Anas (d. 179/796), was the eponym of the school and one of the most prominent figures in the formation of early Sunni identity, the Muwaṭṭaʾ is a reasonable starting point, particularly as the previous translations into English are of a non-academic character.

The translation is based on the Royal Moroccan Edition of the Muwaṭṭaʾ published in 2013, which in turn is based on “some of the most ancient North African and Andalusian manuscripts available.” Six manuscripts are mentioned in the Arabic introduction to the Royal Moroccan Edition (pp. 39–72), namely, (1) a manuscript from al-Zāwiya al-Ḥamzawiyya preserved in Tunis that was copied in 487/1094, which was taken as the base manuscript for the edition; 3

© 2020 Adday Hernández. This is an open access article distributed under the terms of the Creative Commons Attribution-NonCommercial-NoDerivatives License, which allows users to copy and distribute the material in any medium or format in unadapted form only, for noncommercial purposes only, and only so long as attribution is given to the original authors and source.

3. This was collated with the manuscripts of Abū ʿUmar al-Muntajālī (d. 350/961) and the autograph manuscripts of Yahyā b. Yahyā al-Laythī.
(2) the copy of Abū ‘Abd Allāh b. al-Ṭallāʿ (d. 497/1103), copied at the beginning of the seventh/thirteenth century; (3) the copy of Abū Muḥammad Shurayḥ al-Ruʿaynī (d. 539/1144), one of the companions of Ibn Ḥazm, who wrote the manuscript in his own hand for his son Muḥammad b. Shurayḥ (d. 567/1171), probably copied during the first half of the sixth/twelfth century; (4) a manuscript copied in 595/1198; (5) a manuscript copied by ʿAbd Allāh b. Aḥmad b. Muḥammad b. al-Labbād (d. 613/1216); (6) a final manuscript copied around the same time as the latter. Unfortunately, the places where these manuscripts are kept are rarely mentioned (see pp. 67–72).

Moreover, the editors report consulting previous editions as well, namely, (1) the Egyptian edition of Muḥammad Fuʾād ʿAbd al-Bāqī, (2) the edition of Bashshār ʿAwwād Maʿrūf, and (3) the edition of Muṣṭafā al-Aʿẓamī. Preceding the translation, we find three introductory chapters which helpfully situate the work in its context, although the titles of the first two are quite similar, making it somewhat difficult to distinguish their respective content.

First, “The English Translation of the Royal Moroccan Edition of the Muwaṭṭaʾ,” Recension of Yahyā b. Yahyā al-Laythī” (pp. 7–38) provides readers with a biography of Mālik b. Anas and the role he played within the Sunni tradition. It also contains a subsection on the place of the Muwaṭṭaʾ in modern scholarship and, finally, an overview of the work’s contents.

Third, “Arabic Introduction to the Royal Moroccan Edition of the Muwaṭṭaʾ” (pp. 39–72) is an English translation of the introduction to the Arabic edition from which the present translation has been made.

Regarding the language and style, the unsigned first introduction states that “the translation has sometimes adopted a very formal, even archaic tone, while at other times, a colloquial style was deemed more appropriate” (p. 3). This variation notwithstanding, the language is always clear and idiomatic. As stated in the first introductory chapter, the text was initially translated by Drs. Ali Azeria and Mohamed Ouakrime of Al Akhawayn University, with the help of the editors of the Royal Moroccan Edition and two graduate assistants, Lahoucine Amedjar and Dawud Nasir. This initial translation relied on primary and secondary Mālikī sources. In a second stage, in order to make the translation team, the process followed in the translation work, and the editorial conventions.

4. In the electronic resource History of Andalusi Authors and Transmitters it is possible to find a list of manuscripts of Yahyā b. Yahyā’s recension of Mālik’s Muwaṭṭaʾ with references to the libraries where they are kept and the catalogs in which these copies are listed (3. Fiqh: 9, http://kohepocu.cchs.csic.es/flipbooks/3/#p=8).

to make the text accessible to modern legal scholars, nonspecialists in Islamic law, and English-speaking Muslims, Fadel adapted the translation to contemporary legal terminology in English. In a third stage, Fadel and Monette modified the translation to produce an easily readable text, which occasionally led them to depart from the original structure and sense of the Arabic. Both the decision to translate every term into English and the specific translation choices made for each term can be debated. For example, whereas the term *ribā* has usually been translated as “usury,” it is here translated as “unlawful profit.” Although it is true that “usury” is not an accurate translation, a profit obtained from selling wine or pork is also unlawful but does not constitute *ribā*, so perhaps “interest” would have been a more appropriate translation. This kind of critique, however, does not detract from the merit of the translation, which constitutes, in my view, a valuable scholarly accomplishment.

There is little to say about the structure of the translation, since it retains the structure of the original work, which is the same as that followed by the later manuals of Mālikī *fiqh*.

One does note, however, the absence of information on the transmitter of this version of the *Muwaṭṭa’s*, Yahyā b. Yahyā al-Laythī (d. 234/848): his origins, his powerful position in Cordoba, and how his many disciples accorded him fame and spread his recension of the work. It would also have been helpful for the volume to have offered a more detailed account of the introduction of the *Muwaṭṭa’s* in the Islamic West, a process linked to the spread of Mālikism.

According to Hady Roger Idris, and contrary to what Mu’nis affirms, the introduction of Mālik’s doctrine was not supported by the Umayyad dynasty of Cordoba. Instead, it was adopted independently by ‘ulamā’ educated in the Islamic East who transmitted it after their return and was only later endorsed by the Umayyads. Of the two main legal

6. Kecia Ali, for instance, has questioned the decision to translate into English terms that are not objects of comparative legal study. In particular, she focused on the translation of the terms ama and jāriya as “handmaiden,” a term that she considers archaic and ambiguous and one that does not reflect the reality of slavery in the period in which the *Muwaṭṭa’s* was composed. Kecia Ali, “The Handmaiden’s Tale,” *Muwaṭṭa* Roundtable, Islamic Law Blog, December 6, 2019, https://islamiclaw.blog/2019/12/06/muwa%e1%b9%ad%e1%b9%ada%ca%be-roundtable-the-handmaidens-tale/.


trends found between the late second/eighth and the early third/ninth centuries, Mālikism was the only possible choice, since Ḥanafism had been adopted by the Abbasids and was thus perceived by the Umayyads, who opposed its introduction in al-Andalus, as the doctrine of the enemy. In addition, the Muwaṭṭa’ had a series of features that dovetailed with fit the ideological program of the Umayyads. For instance, according to Maribel Fierro, the criticisms of the “East” (al-mashriq, a reference to Iraq) found in the text fit the Umayyads’ anti-Abbasid policies, and the report included in the Muwaṭṭa’ on the taxes taken by ʿUthmān b. ʿAffān from the Berbers of the Maghrib demonstrated that their conversion to Islam took place under Umayyad rule, an argument that was used to fight the spread of Fāṭimid influence in North Africa.11

There is an academic debate about whether we can talk about a real affiliation by the Andalusi jurists to the Mālikī madhhab as such in Yaḥyā b. Yaḥyā’s times, or whether it would be more appropriate to talk about geographical schools, the Medinese/Egyptian school in this particular case.12 However, the influence exerted by Mālik b. Anas in the Islamic West at the time is undeniable, regardless of whether the Mālikī school had already taken form. During the fourth/tenth century, the Muwaṭṭa’ became the canonical ḥadīth compilation in al-Andalus, although apparently it did not influence fiqh substantially in that period.13 Yaḥyā b. Yaḥyā, who had transmitted it to al-Andalus, was then regarded as the introducer of the orthodox canon, which included both the Muwaṭṭa’ in relation to ḥadīth and Nāfi‘’s (d. 169/785) qirā’at (reading variant) of the Qur’ān.14

Yaḥyā b. Yaḥyā was an Andalusi scholar of Berber origin (belonging to the Maṣmūda from Tangier and Ceuta) whose family, known as the Banū Abī Īsā,15 had settled in al-Andalus at the time of the conquests and supported the Umayyads. By Yaḥyā’s generation, the family had already reached a high degree of Arabization and Islamization and was very well situated in Andalusī society. Yaḥyā is said to have studied with Mālik, Nāfi‘, and al-Layth b. Sā’d (d. 174/791), but the contradictions

11. Maribel Fierro, “Medina, the Mashriq, and the Maghrib in the Recension of Mālik’s Muwaṭṭa’ by the Cordoban Yaḥyā b. Yaḥyā al-Layṯī,” Muwaṭṭa’ Roundtable, Islamic Law Blog, December 6, 2019, https://islamiclaw.blog/2019/12/06/muwa%E1%B9%AD%E1%B9%DA%CA%BE-roundtable-medina-the-mashriq-and-the-maghrib-in-the-recension-of-maliks-muwa%E1%B9%AD%E1%B9%DA%CA%BC-by-the-cordoban-ya%E1%B8%A5ya-b-ya%E1%B8%A5ya-al/.


Al-ʿUṣūr al-Wusṭā 28 (2020)
found in the sources, together with the fact that the formal criteria followed in Yahyā b. Yahyā’s time regarding the transmission of texts were not as strict as those imposed from the third/ninth century onward, have led some scholars, such as Maribel Fierro, if not to deny, at least to question this direct contact.16 There are no doubts, however, about the fact that he attended the lessons of the Egyptian disciples of Mālik, including Ibn al-Qāsim (d. 191/806), whose doctrine would become the most widely followed in al-Andalus.

After the “traditionalization” of fiqh (jurisprudence) initiated by al-Shāfiʿī,17 the Muwaṭṭa’, whose transmission chains (isnāds) do not conform to the strict standards imposed by the supporters of this traditionalization, was used by those ‘ulamāʾ who sought an intermediate position between raʾy (personal opinion) and ḥadīth, such as Ibn Waḍḍāḥ (d. 286/900). The fact that the isnāds were not complete meant that the Muwaṭṭa’ was not considered a valid source of ḥadīth after the canonization of Muslim’s and Bukhārī’s Ṣaḥīḥayn.18 However, Ibn ʿAbd al-Barr (d. 463/1071) managed to complete all the chains except four in his Kitāb al-Tamhīd li-mā fi al-Muwaṭṭa’ min al-maʿānī wa-l-āsānīd, with the aim of adapting the Muwaṭṭa’ to the principles established by the discipline of ḥadīth (ʿilm al-ḥadīth) and providing Mālik’s work with the same legitimacy that had been granted to the Ṣaḥīḥayn.

In summary, this is a highly welcome contribution, especially for researchers working on subjects related to Islamic law in the premodern Islamic West, and there is no doubt that it will become one of the main reference sources in this field. The content is clear and accurate and the Arabic technical terms related to the key concepts discussed in each chapter are provided in transcription between brackets the first time they appear, which not only makes it easier to locate the specific expression in the Arabic text but also eases the reading of the English. The indexes are extremely useful for finding specific names and terms and allow the reader to identify both the chapters specifically devoted to particular concepts and the occasional occurrences of those concepts in other chapters.

This trustworthy translation will contribute to raising the quality of future studies by helping academic researchers in Islamic studies interpret Mālik’s work.