

## Book Review

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**Mālik b. Anas, *Al-Muwaṭṭaʿ*: The Recension of Yaḥyā b. Yaḥyā al-Laythī; A Translation of the Royal Moroccan Edition.** Translated with notes by Mohammad Fadel and Connell Monette. Harvard Series in Islamic Law 8 (Cambridge, MA: Harvard University Press, 2019), 858 pp. Price: \$95.00 (cloth).

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This is a high-quality translation of the *Muwaṭṭaʿ*, 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 *Muwaṭṭaʿ*<sup>1</sup> 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 *Muwaṭṭaʿ*<sup>2</sup>, 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,<sup>1</sup> the *Muwaṭṭaʿ* 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 *Muwaṭṭaʿ*<sup>2</sup> published in 2013, which in turn is based on “some of the most ancient North African and Andalusian manuscripts available.”<sup>2</sup> 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;<sup>3</sup>

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1. Jonathan A. C. Brown, “Mālik, the *Muwaṭṭaʿ*, and Sunni Identity,” *Muwaṭṭaʿ Roundtable*, Islamic Law Blog, December 7, 2019, <https://islamiclaw.blog/2019/12/07/malik-muwatta-sunni-identity/>.

2. Mālik b. Anas, *Al-Muwaṭṭaʿ*<sup>2</sup>, 2. At least twenty manuscripts have been preserved of Yaḥyā b. Yaḥyā’s recension of Mālik’s *Muwaṭṭaʿ*<sup>2</sup>. See *History of Andalusī Authors and Transmitters* (HATA), 3. *Fiqh*: 9, <http://kohepocu.cchs.csic.es/flipbooks/3/#p=8>.

3. This was collated with the manuscripts of Abū ‘Umar al-Muntajālī (d. 350/961) and the autograph

(2) the copy of Abū ‘Abd Allāh b. al-Ṭallā‘ (d. 497/1103), copied at the beginning of the seventh/thirteenth century; (3) the copy of Abū Muḥammad Shurayḥ al-Ru‘aynī (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 ‘Abd 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).<sup>4</sup> Moreover, the editors report consulting previous editions as well, namely, (1) the Egyptian edition of Muḥammad Fu‘ād ‘Abd al-Bāqī, (2) the edition of Bashshār ‘Awwād Ma‘rūf,<sup>5</sup> and (3) the edition of Muṣṭafā al-A‘ẓamī.

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” (pp. 1–6), the author of which is not specified, offers background to the initiative that led to the translation of the *Muwaṭṭa’*, as well as an account of the previous translations, the

translation team, the process followed in the translation work, and the editorial conventions.

Second, “Introduction to the Translation of the Royal Moroccan Edition of the *Muwaṭṭa’*”, Recension of Yaḥyā b. Yaḥyā 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 *Muwaṭṭa’* in modern scholarship and, finally, an overview of the work’s contents.

Third, “Arabic Introduction to the Royal Moroccan Edition of the *Muwaṭṭa’*” (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

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manuscript of Abū ‘Abd Allāh Muḥammad b. ‘Abd Allāh b. Abī ‘Īsā (d. 339/950), chief judge of Cordoba and a relative of Yaḥyā b. Yaḥyā, the transmitter of this recension of the *Muwaṭṭa’*.

4. In the electronic resource *History of Andalusī Authors and Transmitters* it is possible to find a list of manuscripts of Yaḥyā b. Yaḥyā’s recension of Mālik’s *Muwaṭṭa’* 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>).

5. His critical edition of Ibn ‘Abd al-Barr’s *Tamhīd* has been recently published. Ibn ‘Abd al-Barr, *Kitāb al-Tamhīd li-mā fi al-Muwaṭṭa’ min al-ma‘ānī wa-l-asānīd*, ed. Bashshār ‘Awwād Ma‘rūf, 17 vols. (London: Al-Furqān Islamic Heritage Foundation, 2017).

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.<sup>6</sup> 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,<sup>7</sup> 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'*, Yaḥyā b. Yaḥyā 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'* in the Islamic West, a process linked to the spread of Mālikism.

According to Hady Roger Idris,<sup>8</sup> and contrary to what Mu'nis affirms,<sup>9</sup> 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.<sup>10</sup> 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'* 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/>.

7. On the meaning of *ribā* and usury, see Adday Hernández, *El valor del tiempo: Doctrina jurídica de la usura (ribā) en el Occidente islámico medieval* (Helsinki: Academia Scientiarum Fennica, 2016).

8. Hady Roger Idris, “Reflections on Mālikism under the Umayyads of Spain,” in *The formation of al-Andalus. Part 2: Language, religion, culture and the sciences*, ed. Maribel Fierro and Julio Samsó, 85–101, (Aldershot: Ashgate Variorum, 1998), 92–95.

9. Ḥusayn Mu'nis (Hussain Monès), “The role of men of religion in the history of Muslim Spain up to the end of the caliphate,” in *The formation of al-Andalus. Part 2: Language, religion, culture and the sciences*, ed. Maribel Fierro and Julio Samsó (Aldershot: Ashgate Variorum, 1998), 51–84.

10. Maribel Fierro, “Proto-Malikis, Malikis and Reformed Malikis,” in *The Islamic School of Law: Evolution, Devolution, and Progress*, ed. Peri J. Bearman, Rudolph Peters, and Frank E. Vogel, 57–76 (Cambridge, MA: Harvard University Press, 2005), 62; Alfonso Carmona, “The Introduction of Malik's Teachings in al-Andalus,” in Bearman, Peters, and Vogel, *Islamic School of Law*, 41–56.

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 *Muwaṭṭaʿ* 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 *Muwaṭṭaʿ* 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.<sup>11</sup>

There is an academic debate about whether we can talk about a real affiliation by the Andalusī 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.<sup>12</sup> 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 *Muwaṭṭaʿ* became the canonical *ḥadīth* compilation in al-Andalus, although apparently it did not influence *fiqh* substantially in that period.<sup>13</sup> Yaḥyā b. Yaḥyā, who had transmitted it to al-Andalus, was then regarded as the introducer of the orthodox canon, which included both the *Muwaṭṭaʿ* in relation to *ḥadīth* and Nāfi’s (d. 169/785) *qirāʾa* (reading variant) of the Qur’an.<sup>14</sup>

Yaḥyā b. Yaḥyā was an Andalusī scholar of Berber origin (belonging to the Maṣmūda from Tangier and Ceuta) whose family, known as the Banū Abī ʿĪsā,<sup>15</sup> 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. Saʿd (d. 174/791), but the contradictions

11. Maribel Fierro, “Medina, the Mashriq, and the Maghrib in the Recension of Mālik’s *Muwaṭṭaʿ* by the Cordoban Yaḥyā b. Yaḥyā al-Laythī,” *Muwaṭṭaʿ Roundtable*, Islamic Law Blog, December 6, 2019, <https://islamiclaw.blog/2019/12/06/muwa%1%B9%AD%1%B9%ADa%CA%BE-roundtable-medina-the-mashriq-and-the-maghrib-in-the-recension-of-maliks-muwa%1%B9%AD%1%B9%ADa%CA%BC-by-the-cordoban-ya%1%B8%A5ya-b-ya%1%B8%A5ya-al/>.

12. See, for instance, Knut Vikør, *Between God and the Sultan: A History of Islamic Law* (London: Hurst and Co., 2005), 98; Ana Fernández Félix, “Biografías de alfaquíes: La generación de al-ʿUtbi,” in *Biografías y género biográfico en el occidente islámico*, ed. María Luisa Avila Navarro, 141–75 (Granada: CSIC, 1997), 165; Miklos Muranyi, “A Unique Manuscript from Kairouan in the British Library: The *Samāʿ* Work of Ibn al-Qāsim al-ʿUtaqī and Issues of Methodology,” in *Method and Theory in the Study of Islamic Origins*, ed. Herbert Berg, 325–68 (Leiden: Brill, 2003); Fierro, “Proto-Malikis,” 65.

13. Maribel Fierro, “El alfaquí beréber Yaḥyā b. Yaḥyā al-Laythī (m. 234/848), ‘El inteligente de al-Andalus,’” in Ávila Navarro, *Biografías y género biográfico*, 269–344, at 334.

14. Fierro, “El alfaquí beréber,” 330.

15. Manuela Marín, “Una familia de ulemas cordobeses: Los Banū Abī ʿĪsā,” *Al-Qanṭara* 6 (1985): 291–320.

found in the sources, together with the fact that the formal criteria followed in Yaḥyā b. Yaḥyā'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.<sup>16</sup> 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-Shāfi'ī,<sup>17</sup> the *Muwaṭṭa'*, whose transmission chains (*isnāds*) do not conform to the strict standards imposed by the supporters of this traditionalization, was used by those 'ulamā' who sought an intermediate position between *ra'y* (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*.<sup>18</sup> However, Ibn 'Abd al-Barr (d. 463/1071) managed to complete all the chains except four in his *Kitāb al-Tamhīd li-mā fī al-Muwaṭṭa' min al-ma'ānī wa-l-*

*asānīd*, with the aim of adapting the *Muwaṭṭa'* to the principles established by the discipline of *ḥadīth* (*ilm 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.

16. Fierro, "El alfaquí beréber," 329–330.

17. See, for instance, Joseph E. Lowry, *Early Islamic Legal Theory: The "Risāla" of Muhammad Ibn Idrīs Al-Shāfi'ī* (Leiden: Brill, 2007), 165–205 (chap. 3: "Prophetic Sunna and Hadith in the *Risāla*"); Ahmed El Shamsy, *The Canonization of Islamic Law: A Social and Intellectual History* (Cambridge: Cambridge University Press, 2015), 65–68 ("Al-Shāfi'ī's Critique of Mālik").

18. Jonathan Brown, *The Canonization of al-Bukhārī and Muslim* (Leiden: Brill, 2007), 232–234.