Fatwās to the Far Maghrib: Ibn Rushd’s Consultations for the Amīr and Cases of Murder and Stolen Cattle

1 Introduction

In addition to jurists in Marrakesh, Ibn Rushd wrote opinions in response to questions originating from jurists and officials active in other regions of the Far Maghrib. A majority of the opinions were solicited by the chief judge of Ceuta, Qāḍī ʿIyāḍ (who will be discussed in Chapter Three). The remaining opinions were directed at a variety of locations – many unidentified in the text. While disparate and elliptical, taken together, these fatwās complement the picture of legal activity, institutional development, and social change sketched out in the Introduction and Chapter One. They corroborate several points while raising a host of other issues, some involving rural and tribal life and others impacting the intellectual and religio-political life of the Far Maghrib as a whole. Keeping with the theme of religiously sensitive subjects for the Almoravid administration before progressing to more rural matters, the first set of questions results (at least purportedly) from direct correspondence between the Almoravid commander and the muftī Ibn Rushd. In the analysis of these texts, I focus on elucidating the context for questions warranting such high-level correspondence and their relationship to social change in the sixth/twelfth-century Far Maghrib. The questions posed by the Almoravid commander serve to situate these changes in a broader pan-Islamic framework. They illustrate how the Almoravid leadership saw itself within the wider Islamic and Mediterranean worlds.

The fatwās in this chapter include a question of ritual law, comparable to that of the man who refused to remove his turban (even if with a bit less flare). Reading this text reinforces the impression of authorities who were more concerned with defining basic ritual practices and the implementation of orthopraxy than with identifying or combating unorthopraxy or “heretical” variations, perceived or real.1 A second question seeks elucidation on a

1 As encountered in other regions and periods of the Maghrib, as for example in Qayrawān under Fāṭimid and Zirid rule where ritual law and practice was one of the central areas of contestation and articulation of Fāṭimid and Mālikī identity. For a discussion of this, in the
particular point of law, but in a criminal framework. The clarification the jurist sought from Ibn Rushd was, again, not unlike that encountered in Chapter One (contradictory testimony relating to divorce), although in a substantially more interesting scenario.

Analysis of a last set of questions provides glimpses of the widespread demographic and structural change that was taking place in the countryside of the Far Maghrib under the Almoravids. Both questions deal directly with legitimating or sanctioning ownership and the transmission of ownership of specific forms of property. As with ritual observance, customary practice conflicted with Mālikī practice, raising difficult questions over the lawful course of action. The cases also reveal the impact of the socio-economic changes ushered in by the new regional order, the advent of which is thought to have coincided with significant redistribution of land and redefinition of land-ownership.

2 Questions from the Almoravid Leadership: On the Permissibility of Ashʿarism and the Exceptionalism of the Islamic Maghrib

The first two fatwās to be discussed in this chapter have been discussed at some length by scholars previously, for the topics they deal with are of clear political and theological significance and because the prominence of the mustaftī suggests that the questions were of importance to the fortunes of the state. I will not go into detail over the more theoretical aspects of either question, but rather address their significance within the framework of the present inquiry. These texts, first of all, add to our understanding of the relationship between the Far Maghrib and al-Andalus. In a way more perspicuous than with the fatwās on ritual law and apostasy in Chapter One, they shed light on the relationship between Andalusī politico-religious learning and the Almoravid leadership: When ʿAlī b. Yūsuf asked Ibn Rushd about the permissibility of uṣūlī theology and the virtue and obligation of jihād, he was asking the Andalusī muftī for counsel on religio-legal issues at the heart of Almoravid identity and of the greatest political importance for the legitimacy of the state.

Perhaps even more compelling, the two questions posed here by the Amīr al-Muslimīn betray an emerging Far Maghribī political identity and thus provide a valuable perspective from which to understand the Far Maghrib’s solidification as a political entity with regard to the rest of the Islamic world. The