The *Book of the Desert*

The Worldview of an Early Nineteenth-Century Muslim Scholar in the Saharan West

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In the early modern period (defined here as the sixteenth to early nineteenth centuries), the societies of the Saharan West appeared to be marked by a paradox. These lineage-based societies, bereft of large urban centers—except, perhaps, for Timbuktu—and largely beyond the sway of state actors, were nevertheless the cradle of powerful intellectual traditions whose references and resources were grounded in Islam. These traditions, propagated through the efforts of an autochthonous scholarly class, made a decisive contribution to the shape of both nomadic and sedentary societies. Beginning in the late Middle Ages, but especially from the seventeenth century on, a profusion of literary texts and works covering all aspects of Islamic knowledge (*ʿilm*) circulated throughout this vast desert space.[1] While

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1. Ulrich Rebstock, *Maurische Literaturgeschichte*, 3 vols. (Würzburg: Ergon Verlag, 2001); John O. Hunwick, ed., *Arabic Literature of Africa*, vol. 4, *The Writings of Western Sudanic Africa* (Leiden: Brill, 2003); Charles C. Stewart, ed., *Arabic Literature of Africa*, vol. 5, part 2,

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it is hard to say whether this was specific to the inhabitants of the Great Desert and its Sahelian fringes, it is undeniable that this blooming of scholarship and its concomitant social effects run counter to a whole series of interpretative models of rurality in the premodern Muslim world, according to which urban culture and that of the rural environment represented two separate, distinct universes.[2]

The impact of intellectual traditions on nomadic herders' and oasis farmers' way of life is clear if we consider the dissemination of the juridical-religious norms designated by the term "sharia," systematized by the science of *fiqh*,[3] and commonly referred to as "Islamic law." The archives produced by Muslim judges (*qadis*) and notaries, in parallel with the development of an enormous body of vernacular juridical literature,[4] contradict two major assumptions current in the social history of the precolonial Maghreb and Sahel. First, the study and practice of Islamic law can no longer be thought of as exclusively urban skills, which a handful of foolhardy missionary ulama struggled to promote in an essentially hostile environment and which remained profoundly alien in local, non-urban contexts. Second, life in the Saharan interior was not regulated solely by an oral, customary legislative regime that was by definition impervious to the stipulations of religious law, and which preferred the mediation of the saints to the judgments of the qadis. On the contrary, juridical regimes anchored in the normative system of *fiqh* proved perfectly able to find a place in sedentary and nomadic communities and thus gave rise to an autonomous juridical culture.[5]

The Writings of Mauritania and the Western Sahara (Leiden: Brill, 2016); Graziano Krätli and Ghislaine Lydon, eds., *The Trans-Saharan Book Trade: Manuscript Culture, Arabic Literacy, and Intellectual History in Muslim Africa* (Leiden: Brill, 2011); Ghislaine Lydon, "Inkwells of the Sahara: Reflections on the Production of Islamic Knowledge in *Bilād Shinqīṭ*," in *The Transmission of Learning in Islamic Africa*, ed. Scott S. Reese (Leiden: Brill, 2004), 39–71.

2. See Ernest Gellner, *Muslim Society* (Cambridge: Cambridge University Press, 1981), to whom we owe probably the most fully developed version of this theory.

3. The term "sharia" refers to the juridical-religious normativity contained in the sources of the Islamic revelation, whereas the notion of *fiqh* refers both to the knowledge that serves to explicate these prescriptions and to the system of norms and rules arising from these efforts at explication and interpretation. See Baber Johansen, *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh* (Leiden: Brill, 1999); Joseph Schacht, *An Introduction to Muslim Law* (1964; repr. Oxford: Clarendon Press, 1982); Bernard G. Weiss, *The Spirit of Islamic Law* (Athens: University of Georgia Press, 2006).

4. Rainer Oßwald, *Schichtengesellschaft und islamisches Recht. Die Zawāyā und Krieger der Westsahara im Spiegel von Rechtsgutachten des 16.–19. Jahrhunderts* (Wiesbaden: Harrassowitz Verlag, 1993); Mohamed El Mokhtar Ould Bah, *La littérature juridique et l'évolution du malikisme en Mauritanie* (Tunis: Université de Tunis, 1981); Yaḥyā Wuld al-Barāʾ, *Al-Majmūʿat al-kubrā. Al-shāmilat li-fatāwā wa nawāzil wa aḥkām ahl gharb wa janūb gharb al-Ṣaḥrāʾ*, 12 vols. (Nouakchott: al-Sharīf Mawlāy al-Ḥasan bin al-Mukhtār bin al-Ḥasan, 2009).

5. Ghislaine Lydon, *On Trans-Saharan Trails: Islamic Law, Trade Networks, and Cross-Cultural Exchange in Nineteenth-Century Western Africa* (Cambridge: Cambridge University Press, 2009); Yahya Ould El-Bara, "*Fiqh*, société et pouvoir. Étude des soucis et préoccupations socio-politiques des théologiens-légistes maures (*fuqahā*) à partir de leurs consultations juridiques (*fatāwā*), du XVIIe au XXe siècle" (PhD diss., EHESS, 1998); Ismail

And that is not all. Any declaration concerning a question of local relevance made by a Muslim scholar in his capacity as jurist (*faqīh*, plur. *fuqahāʾ*) was necessarily framed according to the epistemological, symbolic, and ideological codes of an overarching system. The school of law (*madhhab*, plur. *madhāhib*), here that of Malikism, and the science of *fiqh* in general, were considered an immutable and unsurpassable framework for all normative reflection, since they derived their legitimacy from divine revelation.[6] In other words, jurists dealt with the specific problems of their local societies using abstract, technical language. It can thus be difficult to distinguish, at first glance, their pronouncements from those of Maliki jurisconsults in Morocco or Egypt during the same period. Their Saharan roots were absorbed into a discourse in which "local" matters were considered a normative problem for the Muslim community as a whole, requiring the attention of specialists—the *fuqahāʾ*—versed in the art of resolving such matters, and invested with a monopoly in this respect. This in turn raises the question of the methods and structures of doctrinal reflection that contributed to the formation of a sphere of social action overseen by a body of specialized agents: judges, jurisconsults, and notaries. It is vital, in my opinion, to analyze this circularity between a system of thought and the social environment if we are to understand the historical role of sharia and its authorized interpreters in the evolution of Saharan societies before the twentieth century.

This article addresses the modalities of this "constructivist" practice of Islamic law, focusing on a text dating from the first half of the nineteenth century and formulated by a jurist, Muḥammad al-Māmī wuld al-Bukhārī (d. 1282/1865), originally from the desert expanses of the Tiris region in present-day northern Mauritania. Al-Māmī, who was born in 1202/1788 and led a nomadic existence between the Tiris region and the valley of the Senegal River, began to write the *Kitāb al-bādiya* (*Book of the Desert*), a treatise addressing the adaptation of sharia to the needs of the pastoralist populations of his region, in about 1236/1821.[7] Neither the book nor its author is unknown to historians.[8] Though we possess little information on al-Māmī's

Warscheid, *Droit musulman et société au Sahara prémoderne. La justice islamique dans les oasis du Grand Touat (Algérie) aux XVIIe–XIXe siècles* (Leiden: Brill, 2017).

6. The Maliki school stems from the teaching of the Medina-based jurist, Mālik b. Anas (d. 179/795). It developed especially in the Islamic West and Egypt.

7. The edition used for this study was published by the Centre des études sahariennes in Rabat, and is a reissue of the text published in 2007 by the Association of the Descendants of Muḥammad al-Māmī: al-Shaykh Muḥammad al-Māmī b. al-Bukhārī al-Bariki, *Kitāb al-bādiya wa-nuṣūṣ ukhrā* (Rabat: Publications du Centre des études sahariennes, 2014), hereafter *Kitāb al-bādiya*.

8. There exist two monographs in Arabic on al-Māmī and his works: Muḥammad Wuld Aḥmad al-Barnāwī, *Al-khilāf wa-l-ikhtilāf wa-l-istikhlāf aw al-ʿaw wa-l-sharʿ wa-l-sulṭa al-siyāsiya fī-l-janūb al-gharbī li-l-gharb al-islāmī bidāyat al-qarn al-tāsiʿashara. Muḥāwala ḥafr ḥawla fikr al-shaykh Muḥammad al-Māmi [sic] (1865–1780)* (Nouakchott: Institut Sidi Abdalla Ould el Fadhel pour la recherche scientifique, 2010); and Muḥammad Wuld Aḥmad al-Barnāwī, *Al-shaykh Muḥammad al-Māmi [sic] b. al-Bukhārī: al-walī, al-ʿālim, al-mujaddid* (Nouakchott: s.n., 2012). I would like to express my warm thanks to Mohamed Ould Barnaoui for kindly presenting me with a copy of each of these books.

life, he was a key figure in nineteenth-century western Saharan scholarly culture on account of the extensive circulation of his writings, many of which have been edited in recent years. He appears to have been a veritable polygraph, credited in local tradition with writing several hundred works (doubtless an exaggeration) on various branches of Islamic knowledge, and was well known for both his doctrinal pronouncements, which were considered daring, and the breadth of his mainly self-taught erudition. His literary fame also derives from his poetical works, many of which were composed in *ḥassāniyya*, the local Arabic dialect, and from his versification of works in the "curriculum" of his era's Muslim scholars.[9]

The *Kitāb al-bādiya* was al-Māmī's magnum opus. This work, considered a key text in the literary heritage of what, in the twentieth century, would become Mauritania, has regularly been used as a source by both Arabic-speaking and Western researchers.[10] Why, then, return to a book about which everything, it seems, has been said? It is in fact the very nature of these earlier studies that incites us to reexamine the work using a different scale of observation. This article seeks to move away from interpretations that essentially envisage the *Kitāb al-bādiya* as a source for the study of Muslim scholars' discursive activity in the western Saharan sociopolitical arena. While this approach is inevitable when dealing with a text that incorporates so many ethnographic details and "demonstrat[es] an interest in social questions rarely foregrounded with such clarity,"[11] it nevertheless runs the risk of overlooking a second, no less fundamental, dimension of the work: the author's ambition to be heard in an intellectual forum that was not restricted to western Saharan scholarly circles but rather integrated into a scholarly community that transcended local specificities. In considering the application of sharia in a nomadic environment, al-Māmī sought to make a personal contribution to the Maliki tradition of his time, which extended from Cairo to the camps of the Tiris, and he looked to this broader tradition as he reflected on the society to which he belonged. His book allows us to observe how the discourse of Muslim jurists drew

9. In particular, he transposed into ten thousand lines of verse what was then the principal textbook for Maliki law, the *Mukhtaṣar*, by the Egyptian jurist Khalīl b. Isḥāq al-Jundī (d. 767/1374). Throughout the Sahel and Sahara, the widespread practice of versifying aimed to facilitate the memorization (*ḥifẓ*) of such texts, an ability which represented both the educational ideal of the time and a response to the dearth of paper in the region. On the curriculum studied by Sahelo-Saharan scholars, see Bruce S. Hall and Charles C. Stewart, "The Historic 'Core Curriculum' and the Book Market in Islamic West Africa," in Krätli and Lydon, *The Trans-Saharan Book Trade*, 109–74.

10. Abdel Wedoud Ould Cheikh, "Théologie du désordre. Islam, ordre et désordre au Sahara," *L'année du Maghreb* 7 (2011): 61–77. By studying al-Māmī's representation of the Saharan West as a land of anarchy (*bilād al-sā'iba*) torn by rivalries between different nomadic groups, this anthropologist sheds light on the inscription of the text and its author in the sociopolitical context of the early nineteenth century.

11. Abdel Wedoud Ould Cheikh, "De quoi le Sahara est-il le nom ? Images du Sahara et des Sahariens dans *Kitāb al-bādiya* d'al-Shaykh Muhammad al-Mâmi" (paper presented at the international congress entitled "Le Sahara, lieux d'histoire et espace d'échanges," Guelmim, Morocco, May 26–28, 2016), 9. I thank the author for giving me access to the manuscript of his presentation.

on the environment in which it was produced to address general epistemological questions,[12] and how these scholars' use of external interpretative frameworks and references shaped their perception of local cultural and societal forms. The purpose of the present article, then, is to analyze this local practice of a scholarly cosmopolitanism.

The Formation of a Shared Cultural Space

Between the fourteenth and the seventeenth century, the Saharan West underwent a process of social, cultural, and linguistic reconfiguration with the arrival of nomadic Arabic-speaking populations, the Banū Ḥassān and the Banū Maʿqīl, extending to the south the Hilalian migrations of the medieval period.[13] The intermingling of these pastoral groups with the local, mainly Berber-speaking population led progressively to the formation of a shared cultural space. Its inhabitants used a common vernacular Arabic dialect, *ḥassāniyya*, and considered themselves to form a collective group of "whites" (*bayḍān*, or *bayẓān*), in contrast with neighboring sub-Saharan populations regarded as "blacks" (*sūdān*).[14] Within this space, referred to locally as the "land of the whites" (*trāb al-bayḍān*),[15] there emerged a social order structured around two sociocultural poles that underpinned statutory groups organized according to the classifications of the Islamic system of genealogy (*nasab*).[16]

The first of these poles comprised the *ḥassān* lineage groups (*qabīla*, plur. *qabāʾil*[17]) that were genealogically linked to the Arabic-speaking immigrants and had acquired a reputation as "swordsmen"—hence the expression "warrior tribes" or "warrior groups" in the literature on the subject. These groups competed

12. Michel de Certeau, *L'écriture de l'histoire* (Paris: Gallimard, 1975), 27–31.

13. Rainer Oßwald, *Die Handelsstädte der Westsahara. Die Entwicklung der arabisch-maurischen Kultur von Šinqīṭ, Wādān, Tīšīt und Walāta* (Berlin: D. Reimer, 1986); Abdel Wedoud Ould Cheikh, "Nomadisme, Islam et pouvoir dans la société maure précoloniale (XIe siècle–XIXe siècle). Essai sur quelques aspects du tribalisme" (PhD diss., Université Paris Descartes, 1985), and, by the same author, *Éléments d'histoire de la Mauritanie* (Nouakchott: Institut mauritanien de recherche scientifique, 1991).

14. Bruce S. Hall, *A History of Race in Muslim West Africa, 1600–1960* (Cambridge: Cambridge University Press, 2011).

15. The expression refers to an area stretching from Oued Noun in Morocco to the valley of the Senegal River, and from the Atlantic coast to the Azawad region in the north of present-day Mali. See Khalīl al-Naḥwī, *Bilād Shinqīṭ al-manāra wa-l-ribāṭ. ʿArḍ li-l-ḥayāt al-ʿilmiyya wa-l-ishāʿ al-thaqāfī wa-l-jihād al-dīnī min khilāl al-jāmiʿāt al-badawiya al-mutanaqila (al-maḥāḍir)* (Tunis: al-Munaẓẓama al-ʿarabiyya li-tarbiya wa-l-thaqāfa wa-l-ʿulūm, 1978), 24–56.

16. There exists an abundant anthropological and historical literature on *nasab*. See, in particular, the work of Pierre Bonte, Timothy Cleaveland, Sophie Caratini, Abdel Wedoud Ould Cheikh, Bruce Hall, Rainer Oßwald, Ulrich Rebstock, Ghislaine Lydon, Ann McDougall, Muhammad Ould Saad, and Charles Stewart.

17. In order to better preserve the specificities of Muslim scholarly discourse, I have chosen to translate the term *qabīla* as "lineage group" rather than the more conventional "tribe."

for access to grazing land and watering places, the control of caravan routes, and the tribute they raised from their clients, including numerous sedentary agricultural communities living in the Sahelian region bordering on the Sahara. During the latter half of the seventeenth century and over the eighteenth there emerged, among certain *ḥassān* lineage groups, a number of dynastic powers that sought to establish emirates gathering various groups of warriors and their dependents under the authority of local "big men" who assumed the title of emir.[18]

The second pole was made up of lineage groups claiming religious nobility. This was founded on the learning (*ʿilm*), piety (*ṣalāḥ*), and sainthood (*walāya*) that distinguished particular individuals belonging to a shared genealogy (including its founding ancestor), and whose memory provided the group with a collective identity.[19] These status groups, or "marabout tribes," as writers of the colonial period described them, were referred to by names that varied from region to region but which, in each instance, designated agents and institutions responsible for the transmission of religious knowledge in the Saharo-Maghrebi Islam of the period: *zawāyā*, referencing the religious institutions known as zāwiya; *ṭulba*, designating students of knowledge (*ṭālib al-ʿilm*); or *mrābṭīn*, which gives us the word "marabout." These groups shared the prestige derived from their relation to Islamic history, with lineages claiming descent from the Prophet Muhammad (*shurafāʾ*); they could be found, in particular, near oases in fortified villages (*ksar*, plur. *ksour*) such as Oualata or Tichitt. Finally, these men of prayer and warriors stood in contrast to a subaltern population made up of tributary groups (*znāgā*, *laḥma*) subordinate to the *ḥassān* or the dominant religious lineages, communities associated with certain professions (blacksmiths, fishermen, griots), and populations of slaves (*ʿabīd*) or freed slaves and their descendants (*ḥaraṭīn*).

I will not undertake a detailed analysis of these three categories here. It should nevertheless be emphasized that they in no way formed a fixed, immutable system incapable of evolving over time. Genealogical claims and social status were constantly being renegotiated. Numerous *ḥassān* groups acquired *zawāyā* status, producing famous scholars, and the history of the region abounds in examples of

18. Muhammed Al Muhtar W. As-saʾd, "Émirats et espace émiral maure. Le cas du Trārza aux XVIIIe–XIXe siècles," *Revue des mondes musulmans et de la Méditerranée* 54 (1989): 53–82; Pierre Bonte, *L'émirat de l'Adrar mauritanien*. Harîm, *compétition et protection dans une société tribale saharienne* (Paris: Karthala, 2008); Ould Cheikh, *Éléments d'histoire de la Mauritanie*; Raymond A. Taylor, "L'émirat pré-colonial et l'histoire contemporaine en Mauritanie," *Annuaire de l'Afrique du Nord* 38 (1999): 53–69.

19. This phenomenon is not restricted to the Saharan West but can be found in most parts of the Islamic West, including the Tuareg world, the Fulbe area, and the Ibadite communities. See Fanny Colonna, "Saints furieux et saints studieux ou, dans l'Aurès, comment la religion vient aux tribus," *Annales HSS* 35, no. 3/4 (1980): 642–62; Jocelyne Dakhlia, *L'oubli de la cité. La mémoire collective à l'épreuve du lignage dans le Jérid tunisien* (Paris: La Découverte, 1990); Augustin Jomier, "Un réformisme islamique dans l'Algérie coloniale. Oulémas ibadites et société du Mzab (ca. 1880–ca. 1979)" (PhD diss., Université du Maine, 2015); Harry Thirwall Norris, *The Tuaregs: Their Islamic Legacy and Its Diffusion in the Sahel* (Warminster: Aris and Phillips, 1975); Warscheid, *Droit musulman et société au Sahara prémoderne*, 28–54.

"marabout" lineage groups capable of wielding pen and sword with equal dexterity. The conception of social order as an interaction between different status groups, together with the system of genealogical classifications, should therefore be seen as a discursive framework through which the various actors conceptualized their world: a framework that was shaped by its usages over time, and which resulted in the construction of a specific vision of the world and its hierarchies.

The *Kitāb al-bādiya* was closely inscribed in these dynamics. Its author was a member of the Ahl Bārik Allāh, a powerful *zawāyā* group that migrated in the early eighteenth century towards the plains of the Tiris, an area less exposed to the pressures of the *ḥassān* emirates than the Gibla region from which they came.[20] This episode can be linked to a violent conflict, the Shurr Bubba War, that erupted in the 1670s and served as a sort of foundational myth for *bayḍān* society. Led by a charismatic religious figure known as Abū Bakr b. Akdām Nāṣir al-Dīn (d. 1085/1674), the Tashumsha, a confederation of *zawāyā* that included the Ahl Bārik Allāh, pitted themselves against various *ḥassān* groups living in the south of present-day Mauritania, with the aim of constructing an Islamic state—or imamate—based on the application of sharia law. The sociopolitical issues at stake and the consequences of this confrontation, which ended with the bloody defeat of the Tashumsha, have given rise to diverging interpretations that will not be examined in depth here.[21] What is essential for our purpose are the traces that it left in the collective memory of Sahelo-Saharan populations. On the one hand, the conflict was seen as a symbol of the political dominance of the *ḥassān* over the *zawāyā*; on the other, the short-lived state of Nāṣir al-Dīn became a model for eighteenth- and nineteenth-century jihad movements across the region, particularly in the Sahel.

Both aspects are present in the *Kitāb al-bādiya*, as well as in other writings by al-Māmī. Though he recognized the hegemony of the *ḥassān*, he limited it to the Gibla region, thus implicitly echoing the Ahl Bārik Allāh's claim to be a community of *zawāyā* with no obligation to pay tribute to warrior groups.[22] The assertion of their strength and autonomy in the power struggles between lineage groups in the Saharan West formed the sociopolitical backdrop to the writing of the *Kitāb al-bādiya*. According to Abdel Wedoud Ould Cheikh, the book's main concern was the elaboration of a theological framework to legitimize the raising of tribute from the numerous client groups that were vassals of the Ahl Bārik Allāh.[23]

20. Benjamin Acloque, "De la constitution d'un territoire à sa division. L'adaptation des Ahl Bârikalla aux évolutions sociopolitiques de l'Ouest saharien (XVIIe–XXIe siècles)," *Canadian Journal of African Studies/Revue canadienne des études africaines* 48, no. 1 (2014): 119–43. The term Gibla or Guebla, which alludes to the orientation (*qibla*) towards Mecca for prayer, refers to the south of present-day Mauritania, that is, the Trarza and Brakna regions north of the Senegal River.

21. Philip D. Curtin, "Jihad in West Africa: Early Phases and Interrelations in Mauritania and Senegal," *Journal of African History* 12, no. 1 (1971): 11–24; Ould Cheikh, "Nomadisme, Islam et pouvoir"; David Robinson, "The Islamic Revolution of Futa Toro," *International Journal of African Historical Studies* 8, no. 2 (1975): 185–221.

22. *Kitāb al-bādiya*, 228.

23. Ould Cheikh, "De quoi le Sahara est-il le nom?"

Al-Māmī even appears to have nurtured hopes of vengeance for the Tashumsha. In one of his poems, he addressed a fervent appeal to the confederation to launch a new jihad aimed at restoring the honor of the *zawāyā* and throwing off the yoke of the *ḥassān* emirs.[24]

The historical context seems to have been favorable to an intellectual enterprise of this kind. Since the late seventeenth century, the political landscape of the Sahel and the southern fringes of the Sahara had been shaken by a series of militant religious reform movements among the Fulbe populations, which resulted in the formation of several Islamic polities founded on the practice of jihad and the application of sharia. The most important of these were, in order of their emergence, the Torobe imamate of Futa Toro in the valley of the Senegal River (second half of the eighteenth century), the Sokoto caliphate in the north of present-day Nigeria, founded by Usman dan Fodio (d. 1232/1817), the caliphate of Hamdullahi in the Massina area of Mali, created by Aḥmad Lobbo (d. 1260/1845), and the empire resulting from the conquests of al-Ḥājj ʿUmar (d. 1281/1864), stretching over a large part of the western Sahel.

This is not the place to address in detail this pivotal period, which constitutes one of the principal objects of historiography on West African Islam.[25] Suffice it to note that the new polities exerted considerable attraction for *zawāyā* scholars, whose numerous links with Fulbe jihadists merit a dedicated study. The author of the *Kitāb al-bādiya* is the best illustration of these writers. His pen name pays homage to Almāmī ʿAbd al-Qādir Kane (d. 1221/1807), the founder of the Torobe state of Futa Toro. It is also known that al-Māmī lived in this region of the Senegal River valley for several years, even if the available sources offer no detail about his stay there. It is thus hardly surprising that al-Māmī repeatedly praised the jihad launched by his contemporary al-Ḥājj ʿUmar against "non-believers" (*kuffār*) and "bad Muslims" (*fussāq*).[26]

A Methodological Debate

Even if al-Māmī's text implies an essentially local audience and local concerns, the fact remains that this book by a nomadic scholar is a work of *fiqh*. Its Arabic title is polysemic in a way that the usual translation, *The Book of the Desert*, fails to capture. While the term *bādiya* did indeed refer to a geographical classification of a space inhabited by nomads—and hence to a type of civilization, or "Bedouinness" (*badāwa*, *tabaddī*)[27]—it also invoked a normative categorization in the writings of Muslim

24. Ould Cheikh, "Théologie du désordre," 66.
25. Paul E. Lovejoy, *Jihād in West Africa during the Age of Revolutions* (Athens: Ohio University Press, 2016).
26. The authoritative study remains David Robinson, *The Holy War of Umar Tal: The Western Sudan in the Mid-Nineteenth Century* (Oxford: Clarendon Press, 1985).
27. Jacques Berque, "Les hilaliens repentis ou l'Algérie rurale au xv^{e} siècle d'après un manuscrit jurisprudentiel," *Annales ESC* 25, no. 5 (1970): 1325–53; Sarah Binay, *Die Figur*

jurists. This categorization was underpinned by a contrast opposing the *bādiya* to the world of sedentary populations (*ḥaḍāra*), the other key concept through which premodern Islamic thought envisioned human societies. Whereas the former was encapsulated in the emblematic but ambiguous figure of the Bedouin (*badawī*, *ʿarab*), evoking both the virtues of the noble aristocrat and the destructive strength of the infidel and outlaw, the latter was centered on the image of urbanity (*tamaddun*), an expression of cultural, intellectual, and moral refinement. In juridical discourse, Bedouinness and sedentariness thus served as overarching categories that subsumed the societal frameworks within which the norms of sharia were deployed.

This conceptualization implied a hierarchical vision of the normative space of the Islamic community (*umma*), with the adherence of the sedentary world to sharia doctrine considered a given. In al-Māmī's reading, this stemmed from urban dwellers' high degree of moral refinement, but also from the existence of state power embodied in a legitimate sovereign (*imām*) capable of imposing sharia norms.[28] In the Bedouin world, by contrast, the conditions of existence, beginning with the lack of what Ibn Khaldūn called "constraining" (*wazīʿ*) state authority, meant that the place of sharia within society was fragile and precarious. For al-Māmī, as for most of his Saharan colleagues between the seventeenth and nineteenth centuries, the essential question, therefore, was to what extent, and in what way, the ruling norms of the sedentary world, centered on urban state power, could become the law of a nomadic society when the constraints of its agro-pastoral economy appeared to be irreconcilable with the moral and legal principles of sharia.

From there, al-Māmī found himself confronted with a dilemma characteristic of Muslim jurists in the so-called "post-formative" or "post-classical" period between the twelfth and the nineteenth centuries.[29] How could unresolved questions be addressed when there was a consensus that "the gate of independent reasoning is closed" (*insidād bāb al-ijtihād*) and hence that the jurist's task essentially resided in rigorous observance (*taqlīd*) of the doctrines of the juridical school to which he belonged? This self-censuring dogma prevailed definitively in Sunni law from around the twelfth century. It reflected the end point of a centuries-long process through which the *madhhab* came to form the sole legitimate framework for reflection on sharia.[30] But how were scholars to comply with this dogma when local specificities meant there was an absolute need to provide divergent readings of the ancients and offer autonomous statements—a situation which might result in

des Beduinen in der arabischen Literatur 9.–12. Jahrhundert (Wiesbaden: L. Reichert, 2006); Stefan Leder, "Nomadische Lebensformen und ihre Wahrnehmung im Spiegel der arabischen Terminologie," *Die Welt des Orients* 34 (2004): 72–104; Élise Voguet, "Dissidence affirmée ou rejet codifié de la Umma. *Badawî* et *'arab* dans les *Nawâzil Mâzuna*," in "Les territoires productifs en question(s): Transformations occidentales et situations maghrébines," special issue, *Alfa : Maghreb et sciences sociales* (2006): 147–57.

28. *Kitāb al-bādiya*, 175.

29. Thomas A. Bauer, *Die Kultur der Ambiguität. Eine andere Geschichte des Islam* (Frankfurt: Verlag der Weltreligionen, 2011), 20–24.

30. Sherman A. Jackson, *Islamic Law and the State: The Constitutional Jurisprudence of Shihāb al-Dīn al-Qarāfī* (Leiden: Brill, 1996).

innovations, suspensions, or even derogations? Were social constraints and imperatives sufficient justification for legitimizing a closet form of normative positivism? A reading of the *Kitāb al-bādiya* allows us to consider in a new light debates on the alleged disappearance of innovative juridical-religious thought (*ijtihād*) in favor of what twentieth-century Islamicists and Islamic reformists disdainfully termed "blind imitation" of established doctrines (*taqlīd*).[31] In the introduction to the first chapter of his book, al-Māmī writes:

> *The scholars of our times have divided into two factions; [there is] that of theorists (*uṣūlī*) who lean towards independent reasoning (*ijtihād*), but without openly claiming allegiance to it, or being accused of so doing. They criticize strict observance of the doctrine of the school (*taqlīd*). … [And then there are] those who maintain that they "share the views of Khalīl," and turn towards jurisprudence (*fiqh*), yet without attaining its objectives (*maqāṣidahu*). It can hardly be said that either of these factions aspires to address, at the same time, both the vast questions of jurisprudence (*masāʾil al-fiqh*) and those questions linked to the foundations of the law on which it is legitimate to issue legal opinions (*masāʾil al-uṣūl al-mubīḥa li-l-futyā*). On the contrary, each side vilifies the other.*[32]

This is a far cry from the contrived Orientalist narrative according to which *ijtihād* disappeared once Islamic law entered the state of "sclerosis" into which "all original thought was obliged to retreat, only expressing itself in abstract constructions without influence either on the solutions produced by positive law or on the classical theory of the foundations of the law."[33] What is striking about the passage is, on the contrary, the dichotomy that al-Māmī established between those who undertook an exegesis akin to *ijtihād*, which he explicitly associated with reflection on the epistemology of the science of the law according to Islam (*uṣūl al-fiqh*),[34] and those who

31. Noel James Coulson, *A History of Islamic Law* (Edinburgh: Edinburgh University Press, 1964); Yvon Linant de Bellefonds, *Traité de droit musulman comparé*, 3 vols. (Paris: Mouton, 1965–1973); Schacht, *Introduction to Islamic Law*; Johansen, *Contingency in a Sacred Law*, 42–72; Brinkley Messick, *The Calligraphic State: Textual Domination and History in a Muslim Society* (Berkeley: University of California Press, 1996), 54–72.
32. *Kitāb al-bādiya*, 131.
33. Joseph Schacht, "Classicisme, traditionalisme et ankylose dans la loi religieuse de l'Islam," in *Classicisme et déclin culturel dans l'histoire de l'Islam*, ed. Robert Brunshvig and Gustave E. Von Grunebaum (Paris: Maisonneuve et Larose, 1977), 141–66, here p. 141.
34. This methodology was developed by Muslim jurists between the eighth and the ninth centuries in order to derive norms from the Islamic revelation. The expression "foundation" (*aṣl*, plur. *uṣūl*) is a reference to the four sources of normativity on which Muslim jurists agree: the Quran, the prophetic tradition (*Sunna*), analogical reasoning (*qiyās*), and consensus (*ijmāʿ*). The term *ijtihād* refers to the mastery of this methodology which enables the *mujtahid* to derive norms autonomously, unlike the *muqallid* who has to content himself with applying the rules and principles laid out by *mujtahid* jurists of his school. Over the centuries, Muslim jurists have forged an entire hierarchy identifying different types of *ijtihād* and *taqlīd*. See Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh* (Cambridge: Cambridge University Press, 1999). On the hierarchies among Muslim jurists, see Norman Calder, "Al-Nawawī's Typology

professed to be merely faithful followers of their own particular school's doctrine (*muqallidūn*), adhering to the model set out in the key Maliki reference manual of the early modern era, the *Mukhtaṣar*, written by the Egyptian jurist Khalīl b. Iṣḥāq al-Jundī (d. 767/1374).[35] Yet the tension between the two did not necessarily stem from antagonism between one group demonstrating normative inventiveness and another conforming slavishly to tradition. Rather, the debate reveals a conflictedness almost inherent in the institution of the law as both a set of rules governing society and an object of knowledge, concentrated in the ever-difficult relations between legal practitioners and legal theorists.[36] Thus, while the "students of the fundamentals (*ahl al-uṣūl*) accuse[d] practitioners of the law (*fuqahā'*) of ignoring numerous questions pertaining to legal methodology,"[37] the practitioners called for recognition of their specific expertise and intellectual tools, claiming to be better equipped to master their school's vast bibliography, accumulated over the centuries, and to be more familiar with the concrete contexts in which the norms of sharia were to be deployed.

The argument put forward by the "Khalīl camp" highlights a central problem for the juridical culture of the period. In a normative system entirely grounded in the interpretative activities of jurists, the practice of *taqlīd*—that is, identifying within a given school which norm to apply in a particular case—was fraught with difficulties in light of the immensity of the textual heritage to be perused and the complexity of the deductive rules to be observed. Until the latter half of the nineteenth century, Islamic law had no formally instituted legal code, and works such as Khalīl's *Mukhtaṣar* should be considered as doctrinal digests which were, moreover, practically incomprehensible without the mediation of a commentary. What Sherman Jackson calls the "regime of *taqlīd*" thus involved not unreflective fideism, but an artful search (*baḥth*) for references.[38]

Al-Māmī's description of the legal theorists of his time offers a hint of just how constraining the effects of this reflective framework could be. Even though their activities concerned the study of the "foundations of the law" (*uṣūl al-fiqh*), the author considers them only in terms of issuing fatwas relating to "those questions linked to the foundations of the law on which it is allowable to give legal opinions" (*masā'il al-uṣūl al-mubīḥa li-l-futyā*).[39] Thus, while presenting themselves as an

of Muftīs and Its Significance for a General Theory of Islamic Law," *Islamic Law and Society* 3, no. 2 (1996): 137–64.

35. Mohammed Fadel, "The Social Logic of *Taqlīd* and the Rise of the *Mukhataṣar*," *Islamic Law and Society* 3, no. 2 (1996): 193–233; Oßwald, *Schichtengesellschaft und islamisches Recht*, 12–21.

36. Andrew Hapin, *Reasoning with Law* (London: Hart Publishing, 2001); Tamar Frankel, "Of Theory and Practice," *Chicago-Kent Law Review* 77, no. 1 (2001): 5–28.

37. *Kitāb al-bādiya*, 131.

38. Jackson, *Islamic Law and the State*. This work offers the fullest analysis of the notion of *taqlīd*, based on a meticulous reading of the work of the Egyptian Maliki jurist Shihāb al-Dīn al-Qarāfi (d. 682/1283 or 684/1285).

39. *Kitāb al-bādiya*, 131. The term "fatwa" refers to a legal opinion bearing on a specific point in sharia or its application. A fatwa obeys a dialectical logic—that is, it is always

intellectual elite, these theorists still bowed to the dogma of the "closure of the gate of *ijtihād*." A similar remark can be made apropos of al-Māmī's project to draw up a set of legal dispositions for use by the nomadic populations of the Saharan West. The writer unambiguously indicates that he conceives his interpretative activities strictly within the framework of post-Khalīlian Malikism, and gives an assurance in his foreword that the book is based solely on textual references drawn from the Maliki school.[40] This posture is subsequently condensed in the formula introducing each of his doctrinal pronouncements: "I affirm, but I myself have nothing to affirm" (*qultu wa lā qawlan lī*).[41]

Al-Māmī nevertheless observed a contradiction in the criticism leveled by theorists at the work of their practitioner colleagues: the former accused the latter, he claimed, of "remaining rigidly attached to their texts (*nuṣūṣ*) and failing to take account of juridical maxims (*qawāʿid*), customary practices (*ʿawāʾid*), and considerations of general interest (*maṣāliḥ*), while at the same time forbidding them [as *muqallidūn*] from invoking such sources."[42] In reality, al-Māmī identified with neither of the two camps: he considered that practitioners' disinterest for the theorists' approach demonstrated a regrettable intellectual laziness, while the head-on, disdainful opposition of theorists regarding the legal opinions and judgments set out by their colleagues was "doomed to failure."[43] On the contrary, these extreme positions were what enabled al-Māmī, as a good Sunni Muslim, to defend a *via media* presented as the essence of Islamic normativity: "This is how our Law (*sharʿunā*) proceeds in the [evaluation] of things; it occupies a position midway between the school of the proponents of free will and that of the partisans of predestination (*madhabay al-qadariyya wa-l-jabariyya*), between the abstract and the concrete, between the Law of Moses and that of Jesus."[44] Even given the *topos* of lauding the middle ground among Sunni writers, it is possible to trace the contours of this central path that the author considered would reconcile the two camps.

formulated in answer to an explicit request (*istiftāʾ*) made by an inquirer (*mustaftī*). The identity of the latter can vary: although from its beginnings in the seventh century the issuing of a fatwa was intended above all to provide a framework for the action of Muslim judges, many sovereigns and political dignitaries turned to the muftis to legitimize their decisions from a religious perspective. See Wael B. Hallaq, "From *Fatwās* to *Furūʿ*: Growth and Change in Islamic Substantive Law," *Islamic Law and Society* 1, no. 1 (1994): 29–65; Muhammad Khalid Masud, Brinkley Messick, and David S. Powers, eds., *Islamic Legal Interpretation: Muftis and Their Fatwas* (Cambridge: Harvard University Press, 1996).

40. *Kitāb al-bādiya*, 128.

41. Ibid., 218, for instance. In order to understand the expression, one needs to know that, in the jargon of *fiqh*, the term *qawl* (affirmation) refers to making a doctrinal statement.

42. Ibid., 131.

43. Ibid., 132.

44. Ibid., 131. Al-Māmī refers to the Ashʿarite school which, in Muslim theology (*kalām*), effectively adopted a position midway between *muʿtazilite* rationalism and traditionalist positions. See Jan Thiele, "Between Cordoba and Nīsābūr: The Emergence and Consolidation of Ashaʿrism (Fourth–Fifth/Tenth–Eleventh Century)," in *The Oxford Handbook of Islamic Theology*, ed. Sabine Schmidtke (Oxford: Oxford University Press, 2016), 225–41.

Al-Māmī proposed a sort of methodological compromise, which encouraged practitioners to borrow three hermeneutic procedures from the theorists: consideration of local customary practices, textual extrapolation (*takhrīj*), and the weighing up of divergent opinions (*tarjīḥ*).[45] From this perspective, the solutions he developed for adapting sharia to the conditions of existence in the Saharan West represented an empirical testbed for the compromise he promoted.

A Set of Laws for Nomads

After a brief preface, the *Kitāb al-bādiya* is divided into four chapters of unequal length, called *tamliyya*. This untranslatable play on words refers to the fact that each chapter begins with the conjunction *lammā*, meaning "when" in Arabic. The first three chapters are fairly short, taking up about ten pages each in the edition consulted for this article, whereas the last chapter extends to a hundred or so pages. Chapters one to three form a sort of introduction before we get to the heart of the matter, a point confirmed by the author himself when he describes the fourth *tamliyya* as the "core of the treatise (*ʿumdat al-murakkab*), whereas the preceding three merely represent the prelude and the setting (*ikhmāl*)."[46] This setting is nevertheless important, as it makes it possible to answer a fundamental but hitherto unresolved question: Does the opposition between practitioners and theorists alluded to by al-Māmī refer to a dispute among Saharan scholars or to a much broader debate involving Maliki jurists as a whole—or might it even represent nothing more than a figure of speech?

It is undeniable that, in his technical writing, al-Māmī always deliberately extended local issues towards a global audience of Islamic scholars. His vagueness about his arguments' level of relevance was intentional, related to the worldview of an early nineteenth-century Muslim scholar whose reading of local, necessarily secular facts was shaped by his belonging to a sacred, universal community. Yet it must be recognized that the author's proposals in the first three chapters aimed at nothing less than explicitly contradicting the region's principal authority on legal theory, Sīdī ʿAbd Allāh Wuld al-Ḥājj Ibrāhīm (d. 1233/1817). Originally from the oasis of Tidjikja, located in the center of present-day Mauritania, Wuld al-Ḥājj Ibrāhīm was the author of an extensive body of literary works and enjoyed a considerable reputation among western Saharan jurists as the region's first great specialist of the science of *uṣūl al-fiqh*.[47] His principal work, the *Marāqī al-suʿūd fī*

45. The term *takhrīj* refers to the solution of a hitherto unexamined case according to the casuistic methodology handed down within the framework of the juridical school, whereas that of *tarjīḥ* refers to the choice between contradictory juridical opinions. See Hallaq, "*Fatwās* to *Furūʿ*," 51–52; Hallaq, "*Takhrīj* and the Construction of Juristic Authority," in *Studies in Islamic Legal Theory*, ed. Bernard Weiss (Leiden: Brill, 2002), 337–64; Jackson, *Islamic Law and the State*.

46. *Kitāb al-bādiya*, 175.

47. On this figure, see al-Tijānī Wuld ʿAbd al-Ḥamīd, *Sīdī ʿAbd Allāh b. al-Ḥājj Ibrāhīm al-ʿAlawī bayna muqtaḍiyyāt al-aḥwāl fī-l-majāl wa dawāfiʿ al-raghba fī-l-tajdīd wa sadd al-firāgh* (Nouakchott: Imprimerie nouvelle, 2010).

uṣūl al-fiqh (*Stages towards Happiness in the Foundations of the Law*), a long didactic poem to which he appended a voluminous commentary, was widely diffused even beyond the Sahelo-Saharan space and is still used today in Mauritanian centers of religious education.

This eminent scholar and his disciples were the object of al-Māmī's allusion to the "faction of theorists (*uṣūlī*)." In a short text aimed at the *Refutation of the Vagabonds and Those Who Have Lost Their Way, and Who Quench Their Thirst in the Pools of Questions of Juridical Practice*,[48] Wuld al-Ḥājj Ibrāhīm, who received part of his training in Fez, severely criticized local qadis and muftis. Multiplying the bibliographical references to his Moroccan teachers, he vigorously denounced the propensity of western Saharan jurists to legitimize customary norms (*ʿurf*) and called for the strict application of legal opinions unanimously recognized as authoritative (*mashhūr*) within the Maliki school. Such was his zeal in encouraging his colleagues to adhere, as *muqallidūn*, to generally accepted solutions that he declared invalid any judgment (*ḥukm*) or fatwa that contradicted this principle by basing itself on opinions considered marginal (*shādhdh*) or on local customary practices.[49]

Al-Māmī protested against such rigidity. Though the surviving sources tell us nothing about the circumstances in which the controversy arose, he responded to Wuld al-Ḥājj Ibrāhīm's pamphlet with a gloss (*ḥāshiya*) whose title, *The Riposte of the Vagabonds and Those Who Have Lost Their Way*, clearly set out his intentions.[50] The fact that he replaced "refutation" (*ṭarad*) with "riposte" (*radd*) suggests that he felt under attack from the great legal theorist. This may appear surprising, as Wuld al-Ḥājj Ibrāhīm belonged to the generation of al-Māmī's teachers, and al-Māmī accorded him the honorific title of "our shaykh." In his gloss, al-Māmī nevertheless did his best to firmly fend off the accusations laid against the region's jurists by himself pressing into service the literary heritage of Malikism. The *Kitāb al-bādiya* pursued this apology. The first chapter even took up directly the thread that runs through the gloss, insofar as it essentially consists of a commentary on the title of Wuld al-Ḥājj Ibrāhīm's text. Al-Māmī followed this with a general presentation of the reasons for which it was legitimate, not to say indispensable, in the decision-making process, to take local customary practice into account and sometimes to have recourse to minority normative positions, using techniques of textual derivation and the evaluation of divergent opinions.

Al-Māmī's criticism of Wuld al-Ḥājj Ibrāhīm's intransigence is interesting here not so much for the juridical arguments he set out as for its underlying theme: that the specific characteristics of life in the Sahara made it impossible to respect the restrictions imposed on *muqallidūn* jurists. Renouncing all initiatives

48. Sīdī ʿAbd Allāh bin al-Ḥājj Ibrāhīm al-ʿAlawī al-Shinqīṭī, *Ṭarad al-ḍawāl wa-l-humal ʿan al-kurūʿ fī ḥiyāḍ masāʾil al-ʿamal* (Idleb: Najeebawaih Manuscripts Center, s. d.). I wish to thank Wuld ʿAbd al-Ḥamīd for presenting me with a copy of this book.
49. Ibid., 39–44.
50. *Kitāb al-bādiya*, 99–123. On the *ḥāshiya* as a genre, see Ahmed El Shamsy, "The Ḥāshiya in Islamic Law: A Sketch of the Shāfiʿī Literature," *Oriens: Journal of Philosophy, Theology and Science in Islamic Societies* 41, no. 3/4 (2013): 289–315.

of normative adaptation and creation would, he implied, result in the suspension of the juridical order (*ʿaṭīl al-aḥkām*)—which would be tantamount to abandoning certain pillars (*arkān*) of religious practice such as fasting or canonical prayer.[51] In support of his position, al-Māmī cited the words of a jurist from the oasis of Shinqīṭ, in the Adrar region of Mauritania, Muḥammad Ibn al-Aʿmash (d. 1107/1695–1696): "We do not belong to those entitled to issue fatwas, and yet it is indispensable that we provide answers, given our situation."[52] The quotation was justly chosen. The collection of fatwas attributed to Ibn al-Aʿmash is one of the oldest known examples of juridical *responsa* (*nawāzil*, *ajwiba*) in the western Sahara, marking the beginning of a remarkable development throughout the region,[53] and the legal opinions of this renowned mufti are omnipresent in the writings of local eighteenth- and nineteenth-century jurists. Al-Māmī himself referred to them a number of times in the *Kitāb al-bādiya*. In his appeal for greater flexibility in juridical reflection, he thus co-opted the authority of the founding figure of the jurisprudential tradition in the Saharan West.

Such flexibility was a response to the constraints of both chronology and geography. It also raised the question of how the working conditions of jurists during the early centuries of Islam had differed from those prevailing in the Saharan West in al-Māmī's day:

> *The scholars of the [early] garrison towns (*amṣār*),*[54] *given their assiduity in reading, the few preoccupations that distracted their minds, the abundance of books at their disposal, and the funding of their costs by the state treasury (*bayt al-māl*), were able to engage in constant correspondence on juridical problems. Our situation is totally different. Given the distances separating our camps and our sources, it is not possible to consult another [colleague on any matter]. We therefore judge particular cases (*nawāzil*) without referring to authoritative texts, using either conjecture or analogy (*qiyās*).*[55]

This depiction was doubtless somewhat exaggerated. The abundant literature in fatwa collections, along with the numerous epistolary exchanges between Saharan jurists preserved in the family archives of their "heirs," are ample evidence of a generalized practice of mutual consultation, sometimes over very long distances. Al-Māmī's discourse reflects the persistence, among ulama, of urbanity as the ideal model, in comparison to which local realities could but prove flawed. Nevertheless, the argument is intriguing: doctrinal accommodations derived their legitimacy from

51. *Kitāb al-bādiya*, 127.
52. Ibid., 147.
53. Muḥammad al-Mukhtār Wuld Saʿd, *Al-Fatāwā wa-l-tāʾrīkh. Dirāsa li-maẓāhir al-ḥayāt al-iqtiṣādiyya wa-l-ijtimaʿiyya fī Mawritāniyā min khilāl fiqh al-nawāzil* (Beirut: Dār al-Gharb al-Islāmī, 2000).
54. This is a reference to the garrison towns (*miṣr*, plur. *amṣār*) founded during the great conquests of the first centuries of Islam, such as Basra, Kufa, Kairouan, and Fustat, the future city of Cairo.
55. *Kitāb al-bādiya*, 147.

conditions of existence in the Bedouin environment, which the author associated with the myth of the golden age of Islam.

In chapter four of the *Kitāb al-bādiya*, al-Māmī set out the key aspects of this task of accommodation, which he considered necessary for the maintenance of a normative order grounded in sharia law in the Saharan West. This is the part of the book that offers the richest ethnographic details concerning *bayḍān* society and, for this reason, was the first to capture the attention of researchers.[56] Its catalog of customs and usages is nevertheless secondary to the doctrinal argument. The key issue is working out how *fiqh* could take into account social and cultural realities that differed from those of the city-dweller's universe (*ḥaḍāra*). The author begins his reasoning by highlighting this lack of doctrinal precedent:

> *It seemed to our scholars … that there are numerous questions specific to nomadic populations on which no authority has made pronouncements (*ghayr mutakallim fīhā*) and on which no written document (*muṣannaf*) exists. … This is because juridical books (*taṣānīf*) come from towns (*madaniyya*). But, in most cases, town-dwellers only deal with their own affairs or, at best, the problems that are common to them and us. They say nothing about most questions specific to nomads, either because they are incapable of imagining [these questions] in the context of their own living conditions, or because of the prohibition (*ḥurma*) against speaking of customs (*ʿurf*) other than those of their own land (*balad*).*[57]

It is a fact that many normative questions raised by life in the *bādiya* called for solutions other than those worked out by urban jurists. Al-Māmī cites the example of obligatory alms (*zakāt*). In a barely monetized society, where livestock rearing represented the principal source of wealth, *zakāt* could only be paid in the form of "fungible goods and animals" (*bi-l-ʿurūḍ wa-l-ḥaywān*), whereas manuals of *fiqh* required payment in dirhams or dinars.[58] The situation was even more complex regarding property in mortmain (*awqāf*, *aḥbās*). How could payment be made in the form of cattle to provide for the upkeep of a mosque, and, thereafter, to ensure the perpetuity of such an endowment in the absence of an overseer (*nāẓir*), as was customary in urban contexts?[59] What is more, places of worship in the Bedouin environment rarely possessed stable physical structures: in general, they were no more than sandy areas marked out within the camps. For this reason, al-Māmī validated the local practice that consisted of dividing up, not the usufruct (*ghilla*) of the property held in mortmain, but the object itself, in this case the overall herd of livestock; at the same time, he advised against the procedure of drawing lots (*qismat al-qarʿa*) as a means of allocating ratios to beneficiaries because of its excessive legal complexity, which he considered inappropriate for the needs of nomads.

56. Ould Cheikh, "De quoi le Sahara est-il le nom ?" 8–9.
57. *Kitāb al-bādiya*, 175.
58. Ibid., 177.
59. Ibid., 176 and 205.

Public Order in the *Bādiya*

For al-Māmī, the conception of a Bedouin normative space was closely linked to the question of the exercise of power. This is in no way surprising as, for theorists of the state in premodern Sunni Islam, the judicial function was one of the principal prerogatives of a legitimate sovereign (*imām*). The latter, who was responsible for ensuring the rule of sharia law, delegated the task to qadis through a formal investiture procedure (*tawliya*) and intervened in a variety of ways, depending, of course, on the period and the geographical context, in the appointment of muftis. But in those parts of the Muslim world where no such regulatory authority existed, that is, in lands with no bond of allegiance to an imam (*bilād al-sā'iba*), who could ensure full integration into the community of Islam?[60] Such was the case of the Saharan West, which, according to al-Māmī, formed a no man's land between "the two imamates,"[61] that is, the Alawite sultanate of Morocco and the Torobe theocracy of Futa Toro.

Al-Māmī adopted a position widely shared by jurisconsults in the early modern Sahara and Maghreb, which consisted in recognizing political actors at the local level.[62] These included the leaders of warrior groups—above all the emirs—who "exercise de facto power" (*mutaghallib*), but also the councils (*jamā'a*) made up of the notables (*a'yān*) of a circumscribed collectivity, whether a lineage-based group or the inhabitants of an oasis village. The council, conceived as the "community of Muslims" (*jamā'at al-Muslimīn*), was considered to be the only institutional actor at the local level capable of "replacing the legitimate sovereign in his absence" (*taqūm bi-maqām al-imām*). Thus, the two principal forms of political authority, personal power founded on force (*jāh*) and the oligarchy of nobles, were conceptualized and accredited according to the criteria of *fiqh* and Islamic tradition in general. Al-Māmī conformed to an accommodating, somewhat stoic position ultimately adopted by a majority of Sunni jurists vis-à-vis established powers in order to ward off the threat of "discord" (*fitna*) and preserve public order. This position—that tyranny is better than anarchy—had become a veritable leitmotif of political thinking in Sunni Islam since the decline of the Abbasid caliphate in the tenth century and the emergence of various dynastic states throughout the Muslim world.

Al-Māmī therefore recognized the authority of *ḥassān* leaders for the sake of preserving the public good (*maṣlaḥa*),[63] even if he was not prepared to accept the religious legitimacy of this domination based on the seizure of power by force

60. Houari Touati, "Le prince et la bête. Enquête sur une métaphore pastorale," *Studia Islamica* 83, no. 1 (1996): 101–19.
61. *Kitāb al-bādiya*, 177. See also Ould Cheikh, "Théologie du désordre," 65.
62. Rahal Boubrik, "Les *fuqahâ'* du prince et le prince des *fuqahâ'*. Discours politique des hommes de religion au pays maure (Mauritanie, XVII^{e}–XIX^{e} siècle)," *Afrique et histoire* 7, no. 1 (2009): 153–72; Ould Cheikh, "Théologie du désordre," 67; Warscheid, *Droit musulman et société au Sahara prémoderne*, 158–63.
63. Felicitas Opwis, *Maṣlaḥa and the Purpose of the Law: Islamic Discourse on Legal Change from the 4th/10th to 8th/14th Century* (Leiden: Brill, 2010).

alone (*taghallub*). In his opinion, obeying (*ṭāʿa*) the orders of warrior groups and, above all, satisfying their fiscal demands, were measures dictated purely by necessity (*ḍarūra*), taken in order to protect the population against the very real threat of exactions. He compared the different forms of tribute (*mudārāt*) levied upon the *zawāyā* groups by warrior chiefs to the walls that surrounded every zāwiya edifice[64]: the protective function of the building in the sedentary environment was fulfilled, in the nomadic context, by the payment of tribute, described as an act of charity (*ṣadaqa*) and considered obligatory for each member of the community. From a juridical perspective, however, this line of argument was problematic. The levies raised by warrior groups constituted illegal taxes. How could something be declared obligatory if it lacked any legal basis and even appeared to be an injustice (*ẓulm*)? Al-Māmī cited the principle of the "choice of the lesser evil" (*irtikāb akhaff al-ḍararayn*).[65] This was a consensual position among eighteenth- and nineteenth-century Saharan jurists, some of whom even went so far as to authorize the qadis or community councils to make forced sales of goods so as to guarantee the payment of such levies.[66] Al-Māmī nevertheless insisted on the exceptional nature of this solution, which he hoped would be provisional, implicitly referring to the jihad of Nāṣir al-Dīn: "If it can be in the public good (*al-maṣlaḥat al-ʿāma*) to forgo paying tribute (*mudāra*), as was the case for a certain time in the Gibla, because justice had manifested itself there (*li-ẓuhūr al-ʿadl*), … we then revert to the original situation (*aṣl*), which is the non-obligatory character (*ʿadam al-luzūm*) [of these levies]."[67]

Al-Māmī's insistence on the utopic hope of creating an authentic Muslim polity distinguished his position from that of other Saharan jurists, for whom this revolutionary option fell into the realm of the prohibited. Indeed, the eminent scholar Ibn al-Aʿmash had actively opposed the pretensions of Nāṣir al-Dīn, whom he accused of heretic proselytism.[68] Seen from this perspective, the attitude of the *Kitāb al-bādiya*'s author towards the states originating from the Fulbe jihads was particularly remarkable. He considered them to be not the regrettable, ephemeral result of overreaching ambitions that had created discord (*fitna*) among believers, but Islamic polities as legitimate as the Sharifian Sultanate of Morocco.

The argument hinged in particular on the question of political actors' ability to impose the corporal punishments prescribed by sharia law (*iqāmat al-ḥudūd*), such as the amputation of a hand in cases of theft (*saraq*) or stoning as a sanction for

64. *Kitāb al-bādiya*, 212: "zāwiya al-bayt lā budda lahā min suwwar." For an overview of this system of taxation, see Bonte, *L'émirat de l'Adrar mauritanien*; As-saʾd, "Émirats et espace émiral maure."
65. *Kitāb al-bādiya*, 214.
66. Ibid., 214. Here he recalls a fatwa by Ibn al-Aʿmash on the sharing of charges between the inhabitants of the Ouadane oasis. The same practice can be observed among oasis jurists in the greater Touat in southern Algeria during the eighteenth and nineteenth centuries. See Warscheid, *Droit musulman et société au Sahara prémoderne*, 102–105.
67. *Kitāb al-bādiya*, 214.
68. Ould Cheikh, "Théologie du désordre," 64; Abdel Wedoud Ould Cheikh and Bernard Saison, "Vie(s) et mort(s) de al-Imām al-Ḥaḍrāmī. Autour de la postérité saharienne du mouvement almoravide (11e–17e s.)," *Arabica* 34, no. 1 (1987): 48–79, here pp. 66–71.

certain types of sexual relations judged to be illegal (*zinā*).[69] While in reality these punishments were rarely implemented in medieval and early modern Muslim societies, they were nevertheless the symbol par excellence of the existence of Islamic state power.[70] This is a complex question in itself, but it is important to note that according to the norms of *fiqh*, the *ḥudūd* aimed to punish those transgressing the "rights of God" (*ḥuqūq Allāh*), that is, the limits—the literal meaning of the term *ḥudūd* (sing. *ḥadd*)—that the Islamic revelation had set for human acts, and of which the imam was the duty-bound guarantor.[71] The introduction of this penal regime was one of the stakes in West Africa's jihad movements, even if the concrete modalities of its application at the local level remain unclear.[72] In any event, al-Māmī affirmed that he saw with his own eyes the "Almāmī Abū Bakr ensure the implementation of the *ḥudūd* at Jawluma."[73] The author of the *Kitāb al-bādiya* used the theme of corporal punishment to establish a close link between the emergence of a powerful political actor—whether a strongman (*mutaghallib*) converted to the religious cause or a community assembly (*jamāʿa*) respectful of the norms of sharia—and the construction of an Islamic state: "In a place where there is no such person wielding power, the situation that prevails shall be the same as among people in the area between two imamates: there can be no application of corporal punishments until such a figure emerges, unless there is a community assembly within which there is no danger of discord."[74]

No such thing could take place, therefore, in the *bādiya* of al-Māmī's day, where recourse to physical punishments—including the law of retaliation—would inevitably run the risk of unleashing interminable cycles of violence. For this reason, the practice (*ʿamal*) of substituting fines (*ʿuqūbāt al-māl*) for these punishments was generalized throughout the early modern Saharan West, a usage that incidentally echoes the customary dispositions (*ittifaqāt*) of the Berber-speaking populations of southern Morocco. Following the majority of Saharan jurists, al-Māmī called for a pragmatic approach to the question. In his view, such adaptations were grounded in the fact that the "prescriptions of the sacred Law follow the interests of the public

69. Éric Chaumont, "'God Has Ordained Excellence in All Things; When You Put to Death, Do So after a Decorous Manner': The Implementation of Mandatory Penalties (*al-ḥudūd*) in Muslim Law," in *The Quest for a Common Humanity: Human Dignity and Otherness in the Religious Traditions of the Mediterranean*, ed. Katell Berthelot and Matthias Morgenstern (Leiden: Brill, 2011), 327–47; Johansen, *Contingency in a Sacred Law*, 349–420 and 421–33; Rudolph Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-First Century* (Cambridge: Cambridge University Press, 2005).
70. Robert Gleave, "Public Violence, State Legitimacy: The Iqāmat al-ḥudūd and the Sacred State," in *Public Violence in Islamic Societies: Power, Discipline, and the Construction of the Public Sphere, 7th–19th Centuries CE*, ed. Christian Lange and Maribel Fierro (Edinburgh: Edinburgh University Press, 2009), 256–75.
71. Johansen, *Contingency in a Sacred Law*, 189–218, presents an excellent analysis of this differentiation based on the case of the Hanafite school.
72. Sarah Eltantawi, *Shariʿah on Trial: Northern Nigeria's Islamic Revolution* (Oakland: University of California Press, 2017).
73. *Kitāb al-bādiya*, 177. Regrettably, it has not been possible to localize Jawluma.
74. Ibid., 177.

good." One only had to look at the history of the revelation according to Islam: "This is why the Law of Moses excluding the granting of pardon (*ʿadam al-ʿafaw*) differs from that of Jesus, which, on the contrary, makes it obligatory with respect to crimes of blood, for what is defined as the public good varies (*li-ikhtilāf al-maṣlaḥa*) [from one period to another]."[75]

The variability of the public good also concerned the spatial conditions of human existence. This intersected with the theme of the opposition between the city-dweller's world (*ḥaḍāra*) and that of the Bedouin (*bādiya*) mentioned above. For al-Māmī, urban civilization (*tamaddun*) was a space in which respect for the norms of sharia was clearly visible: women were veiled, the segregation of the sexes was a given, religious knowledge was taught as it should be, and Islamic punishments were administered. The examples referenced by the author concern both the judicial order and public morality established as a form of cultural distinction. Pondering the concept of *tamaddun*, he asked: "Is it a matter of being effectively attached to an urban jurisdiction or of the high morality of the urban environment?"[76] While the question was doubtless in part rhetorical, the two aspects were nevertheless intrinsically linked. In the framework of *fiqh*, reflection on the role of law in society was conceived as a contribution to what the Ottomanist Leslie Peirce has termed a "common moral citizenship,"[77] even though Muslim jurists were well aware of the potential tension between the ethical-moral duties of the believer (*diyāna*) and the specific demands of legal rationality.[78]

However, another set of questions emerged from this legal and cultural subordination of the Bedouin world to that of the city. Was it incumbent on the inhabitants of the *bādiya* to ask city-dwellers for their protection as clients (*mawālī*), as might be suggested by a whole series of traditions, going back to the first period of Islam, that al-Māmī adduces in his text? Was it not said that the Prophet Muhammad had exhorted a believer "not to live in villages so that [his] knowledge would not be lost"?[79] What, then, should one make of the position of the great seventeenth-century Moroccan man of letters, al-Ḥasan b. Masʿūd al-Yūsī (d. 1102/1691), who wrote in glowing terms of Bedouin village life?[80] The representation of the Bedouin

75. Ibid., 218.
76. Ibid., 175.
77. Leslie P. Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (Berkeley: University of California Press, 2003), 208.
78. Johansen, *Contingency in a Sacred Law*, 172–88. For example, the validity of a contract was not affected by the moral standing of the parties, whether deemed "pious" (*ṣāliḥ*) or "debauched" (*fāsiq*). The only question that mattered was whether the transaction was in conformity with the norms of the juridical school, and whether the parties possessed full juridical capacity. In contrast, certain acts such as pillage or the abuse of power could entail both ethical-moral condemnation and a loss of legal capacity; since the *ḥassān* warrior groups were the principal targets of these measures, this jurisprudential topic is prominent in the collections of western Saharan fatwas. See Oßwald, *Schichtengesellschaft und Islamisches Recht*.
79. *Kitāb al-bādiya*, 175.
80. Ibid., 176. See Jacques Berque, *Al-Yousi. Problèmes de la culture marocaine au XVII^e siècle* (Paris: Mouton, 1958).

universe in the writings of medieval and early modern Muslim thinkers was characterized by a profound ambivalence. The *bādiya* inspired at once fear and admiration. At times, it was lauded as the refuge of a type of social life characterized by a supposed original "purity," conveyed in particular through verbal interactions—the topos of the "clear" language of the Bedouins—while at others it was denounced not only as a hotbed of impiety and ignorance but also, on account of the uncontrollable forces it harbored, as a constant threat to urban order.

Regrettably, al-Māmī did not develop his interpretation of this theme, which was also the basis of Ibn Khaldūn's theory of civilization. He limited himself to defining a legal system according to remoteness from an urban center: "Those who still find themselves in a contact zone (*ahl masāfa al-ʿadwā*) [adjacent to a town] should not act outside of the urban jurisdiction (*aḥkām al-mudun*) since that law can potentially reach them, and what is close to something shares its juridical status."[81] Beyond this sphere of influence lay the vast, ill-defined expanse of the *bādiya*, a land of anarchy in which "the obligations imposed by God, and that come under the aegis of the sovereign and his agents, are forgotten"[82]—unless, that is, a leader or community assembly emerged to take the implementation of sharia in hand.

The connection between the implementation of a judicial system and the preservation of a public order embodying the ethical and moral demands of the divine legislator was, however, not envisaged by al-Māmī solely through the prism of the absence, in Bedouin territories, of its city-based custodians: urban culture and the imam. The accommodations required in the name of the public good also depended on the constraints inherent to the nomadic life of the *bādiya*'s inhabitants. Al-Māmī cited, for instance, the question of the strict segregation of the sexes, as well as that of the clothing restrictions imposed on women and to a lesser extent men, obliging them to cover what Muslim jurists considered to be intimate parts of the body (*sitr al-ʿawra*).[83] For the author, regular migrations between grazing areas, along with unavoidable social mixing in the camps, were all cases of absolute necessity (*ḍarura*) that authorized the partial suspension of the norms applicable in such matters.

The question of clothing restrictions and the segregation of the sexes was nevertheless a sensitive issue, as it positioned the body as a nexus between the social and the symbolic orders. Al-Māmī convincingly mobilized multiple references and citations to establish a doctrinal basis for his position, underscoring an analogy with the requirements of different social contexts: medical consultations,

81. *Kitāb al-bādiya*, 177.

82. Ibid., 223.

83. Éric Chaumont, "La notion de *ʿawra* selon Abû l-Ḥasan ʿAlî b. Muḥammad b. al-Qaṭṭān al-Fâsî (m. 628/1231)," *Revue des mondes musulmans et de la Méditerranée* 113/114 (2006): 109–23, here p. 113: "A person's *ʿawra* refers in a general way to the parts of the body that cannot be uncovered, and cannot be allowed to be seen, and on which another person cannot gaze." See also Baber Johansen, "The Valorization of the Human Body in Muslim Sunni Law," in *Law and Society in Islam*, ed. Devin J. Stewart, Baber Johansen, and Amy Singer (Princeton: Markus Wiener, 1996), 71–112.

giving testimony before a judge, or the frequentation of markets.[84] At the same time, while he showed leniency towards other local practices that conflicted with the norms of *fiqh*, such as various customary livestock transactions often bordering on usury (*ribā*),[85] on this question, al-Māmī seems to have conceded only the absolute minimum required so as not to seriously hamper the mobility of pastoralist groups. He warned his readers that "what cannot be avoided, such as the uncovering of the extremities not because of an intention to expose one's body, but because of the imperatives of travel, nevertheless does not override the principle of the obligation to cover oneself."[86]

Al-Māmī was even more intransigent regarding the taboo on entering a dwelling (*bayt*)—in this case, a tent—without prior authorization (*istīdhān*), which might "expose" female members of the household to indiscreet gazes. He recognized that life in a nomadic camp made it difficult to maintain such norms of propriety, which existed to preserve the familial group's privacy (*ḥarīm*) and characterized the modes of cohabitation in Muslim towns and villages. But he once again deplored the absence of an Islamic state authority, since "abandonment of the rule that authorization must be requested is tantamount to the abandonment of one of the functions that lie within the remit (*wilāya*) of the authority responsible for public order (*muḥtasib*)."[87] In the context of the *bādiya*, the public office of *muḥtasib* was transformed into an individual obligation. In the name of the imperative enjoining Muslims "to command right and forbid wrong,"[88] individuals were thus to do their utmost, according to their means, to ensure compliance with this norm, which was closely associated with Quranic injunctions and prophetic traditions.

The derogations concerning the segregation of the sexes were, therefore, exclusively applicable in exceptional conditions. The exercise of power over the body proved to be the focal point that crystallized the dogmatic authority on which the whole of al-Māmī's argument was based. His admonition concludes with a reference to the moral excellence of the way of the Sufis (*madhhab al-ṣūfiyya*), said to abstain (*ijtināb*), on principle, from all contact with "strangers," for "if the first way is that of the rules of sharia (*quyūd al-sharīʿa*), the second filters access to divine truth (*aghlāl al-ḥaqīqa*)."[89] The digression on Sufism may appear surprising: it is hardly mentioned elsewhere in al-Māmī's book, even though he forged a reputation as a mystic and saintly miracle-worker. However, in light of the forms and modes of normative perception I have attempted to reconstruct in this article, the unexpected incursion of the other major pillar of early modern Muslim culture would appear to

84. *Kitāb al-bādiya*, 219.
85. Oßwald, *Schichtengesellschaft und Islamisches Recht*.
86. *Kitāb al-bādiya*, 219.
87. Ibid., 220. On the institution of the *muḥtasib*, see Kristen Stilt, *Islamic Law in Action: Authority, Discretion, and Everyday Experiences in Mamluk Egypt* (Oxford: Oxford University Press, 2011).
88. *Kitāb al-bādiya*, 220: "al-amr bi-l-maʿrūf wa-l-nahī ʿan al-munkar." See Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge: Cambridge University Press, 2006).
89. *Kitāb al-bādiya*, 220.

be the logical conclusion to his reasoning. It is a sign of the integration of reflection on juridical rules into a discourse whose ultimate objective was the quest for salvation through the construction of ethical and moral exemplarity. The most obvious contemporary manifestation of this was the practice of Sufism. At the sociological level, the idealization of a life rooted in the scrupulousness (*wara'*) that should nurture each social act—including the law—lay at the basis of the symbolic power exercised by the class of scholars to which al-Māmī belonged.

The *Kitāb al-bādiya* reveals the worldview of a jurist and cleric who was doubly marginal according to criteria which, in a field still profoundly marked by the Orientalist heritage, tend even today to shape research into the history of ideas in Islam. Its author lived in a period long considered to be of scant scholarly interest in comparison with the intellectual exploits of the "great figures" of the Middle Ages and the protagonists of Muslim modernism from the latter half of the nineteenth century on. Despite the significant methodological and conceptual renewal that has taken place since the late 1970s, the intellectual history of Islam is still often seen through the prism of a sort of clash of civilizations pitching "innovation" against "decadence," "renaissance" against "decline," and "creation" against "imitation."[90] From this perspective, texts such as the *Kitāb al-bādiya* have generally been relegated to the rank of secondary writings, whose sole merit is as documentary sources for studying the "mental universe" of a particular period.[91] Moreover, al-Māmī belonged to what is considered a peripheral space both in Islamic studies focusing on the "central lands of Islam"[92] and in research into West African Islam, whose focus is predominantly Senegal, Mali, and Nigeria. "Important" things took place not in the nomadic camps of the Saharan West but in great cities such as Cairo or, at a push, Timbuktu. Seen in this light, al-Māmī's claim to belong to a "betwixt and between" space (*bilād al-fitra*) continues to possess unsuspected relevance.

Yet the *Kitāb al-bādiya* warns against the sort of intellectual history that evaluates its objects and sources in terms of their distance from a "center," whether geographical or chronological, literary or epistemological. Al-Māmī's purpose was to set

90. Gustave E. Von Grunebaum, *Modern Islam: The Search for Cultural Identity* (Berkley: University of California Press, 1962), 45: "And, moreover, the success of the 'mediaeval' period did not last too long. By the eighteenth century Muslim society everywhere, and in every area of endeavor, was in serious decline." Similar citations can be found in recent publications. See, for instance, Dan Diner, *Lost in the Sacred: Why the Muslim World Stood Still* [2005], trans. Steven Rendall (Princeton: Princeton University Press, 2009); Timur Kuran, *The Long Divergence: How Islamic Law Held Back the Middle East* (Princeton: Princeton University Press, 2010).

91. Ismail Warscheid, "The Persisting Spectre of Cultural Decline: Historiographical Approaches to Muslim Scholarship in the Early Modern Maghreb," *Journal of the Economic and Social History of the Orient* 60, no. 1/2 (2017): 142–73.

92. For a critical view on this Arabocentrism, see Shahzad Bashir, "On Islamic Time: Rethinking Chronology in the Historiography of Muslim Societies," *History and Theory* 53, no. 4 (2014): 519–44.

out a position in the juridical debates of his times. In doing so, he brought together a mix of scholarly references in a subtle, complex interplay of perspectives. Some of his topics, beginning with the question of recourse to *ijtihād*, preoccupied scholarly circles across the Muslim world of his day, in India or Damascus as much as the Saharan West; others deal with normative problems more closely linked to the author's environment, but their vernacular characteristics are absorbed into a doctrinal demonstration presented as a contribution to the Maliki tradition. To further confuse the picture, al-Māmī legitimized his reflections on the adaptation of sharia to the Bedouin world—which have no known equivalent in the Maghreb or the Middle East—by asserting his own marginal position within the Muslim "Republic of Letters."[93] it was the silence of urban erudition and of the authorities of the past that made it both conceivable and necessary to produce new solutions based on Maliki textual references. The argument that the "late" nature of a work originating on the "fringes" of Islam accounts for such intellectual dynamics hardly seems to resist scrutiny. Rather, what emerges from a reading of the treatise is the threefold question of how an author such as al-Māmī appropriated the cultural resources of his period and background, how he mobilized them in his own discourse, and how the hierarchies, classifications, and "centers" presupposed by the scholarly culture to which he belonged participated in this process.

The *Kitāb al-bādiya* thus invites us to shift our gaze away from the reconstruction of intellectual genealogies, still largely prevalent in Islamic studies, towards an analysis of scholarly practice. This article has sought to restore progressively the different contexts in which its author's reasoning was inscribed: that of a religious notable from the Saharan West, a member of a powerful *zawāyā* group, a nostalgic admirer of the exploits of Nāṣir al-Dīn, and a fervent supporter of the leaders of the jihad of his day; that of a Maliki jurist reflecting on his society within the framework of the culture of *fiqh*; and that of a nomad pondering the legal and religious implications of the cultural distance and political divergence that separated his world from that of the towns. Such an approach also requires us to underscore the silences we observe in his discourse. At no point did al-Māmī mention, for instance, the institution of slavery, which was nevertheless fundamental to the social organization of

93. For other uses of the "Republic of Letters" in the field of Arabo-Islamic studies, see Muhsin J. al-Musawi, *The Medieval Islamic Republic of Letters: Arabic Knowledge Construction* (Notre Dame: University of Notre Dame Press, 2015); İlker Evrim Binbas, *Intellectual Networks in Timurid Iran: Saraf al-Dīn ʿAli Yazdī and the Islamicate Republic of Letters* (Cambridge: Cambridge University Press, 2016). On the networks of scholars in the early modern and modern Sahara and Maghreb, see Augustin Jomier, "Les réseaux étendus d'un archipel saharien. Les circulations de lettrés ibadites (XVIIe–années 1950)," *Revue d'histoire moderne et contemporaine* 63, no. 2 (2016): 14–39; Stefan Reichmuth, "Murtaḍā al-Zabīdī (1732–91) and the Africans: Islamic Discourse and Scholarly Networks in the Late Eighteenth Century," in Reese, *The Transmission of Learning*, 121–53; Charles C. Stewart, "Southern Saharan Scholarship and the *Bilād al-Sūdān*," *Journal of African History* 15, no. 1 (1976): 73–93; Warscheid, *Droit musulman et société au Sahara prémoderne*, 28–57.

the whole region, and partly remains so to this day.[94] He likewise remained silent regarding the presence of Europeans on the Atlantic coast since the fifteenth century, including the French merchants of Saint-Louis who were closely involved in the gum arabic trade with the *bayḍān* nomads of the Gibla. For al-Māmī, what was most important about life in the *bādiya*, and thus the necessary focus of jurists' normative efforts, was the interaction between the Arabic-speaking nomads and, in particular, between the different *zawāyā* groups. These silences would doubtless merit further examination. Nevertheless, a close reading of this tapestry of citations, which brings together textual sources originating in very different periods and regions but linked by their place in the shared discursive formation of Malikism, reveals a picture radically different from the passive adoption of cultural schemas imported from elsewhere. Al-Māmī's creative usage of his references illustrates the forging of a tradition of juridical thought in the Saharan West that was aware of its singularities yet asserted its relevance to the universal.

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94. Rainer Oßwald, *Sklavenhandel und Sklavenleben zwischen Senegal und Atlas* (Würzburg: Ergon Verlag, 2016).