

## **Judiciary in Granada during the reign of (Bani al-Ahmar) (635-897 AH / 1238-1492 AD)**

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### **List of abbreviations**

<b>S.R.</b>	same reference
<b>P.R.</b>	Previous reference
<b>T.R.</b>	Translation
<b>D.</b>	Died
<b>Pg.</b>	Page
<b>P.</b>	Part
<b>Vol.</b>	<b>Volume</b>
<b>W.E.</b>	without edition
<b>N.D.</b>	no date
<b>Ed.</b>	Edition
<b>Inv.</b>	Investigated
<b>Dep.</b>	Department
<b>AD</b>	Date
<b>H.D.</b>	Hijri date
<b>P.P.</b>	printing press

### **Abstract**

The judiciary and judges are an essential building block of the civilization of the Arab Islamic state, upon which the administrative structure of the Islamic state or emirate is based. It is a major reason for the prosperity of trade, securing roads, maritime transport, and transportation, as well as political and economic stability, which was reflected in the growth of civilization in Andalusia, especially the era of Banu al-Ahmar in Andalusia,

which spanned more than two and a half centuries. The source of civilization in Granada would not have stopped had it not been for the victory of the Kingdom of Castile, evacuating the Arabs from it, and extinguishing the flame of civilization in it. One of the aspects that we have highlighted is the judiciary and judges in Cordoba during the time of the emirate, which is the Emirate of (Bani al-Ahmar). Throughout this research, we followed what the sources mentioned about the judges with a simple introduction about the Umayyad and Abbasid states, their system, and their names. Besides, we dealt with the study and analysis of the judges of Granada and what the works and yearbooks have revealed about the judicial system in Granada, also, we have traced the types of the judiciary and the conditions for appointing a judge in Andalusia, as well as judges and their types in Granada, the types of judicial plans, the Hesba system and its relationship to the Andalusian judiciary and judges' assistants, the diversity of social responsibilities of the judge in the Emirate of Granada in addition to the methods of selecting judges, news of judges, their stories, their names, their uniforms, and the available archaeological documents and old photographs mentioning the judiciary, the types of judges, and the anecdotes of the judiciary.

## Introduction

The Islamic state expanded greatly during the early Hijri centuries, due to the mixing of different races within the framework of Islamic civilization, it was necessary to have a stable, distinguished, and organized judicial system in the Islamic state because the Noble Qur'an became the source of Islamic legislation, Allah Almighty said (judge, [O Muhammad], between them by what Allah has revealed)<sup>1</sup>, the Prophet (may God's prayers and peace be upon him and his family) established and developed the judicial system, laid down its rules, foundations, and conditions, and defined the powers, duties, attributes of the judiciary and its privileges.<sup>2</sup>

The Prophet, may God bless him and grant him peace, judged between opponents. Besides, the caliphs after him were also accustomed to the

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<sup>1</sup>Surat Al-Ma'idah, verse 49.

<sup>2</sup>Al-Bukhari, Abu Abdullah Muhammad bin Ibrahim bin Al-Mughirah in Bardzbah, Sahih Al-Bukhari, Book of Al-I'tisam 97, Tah: Abdul Aziz bin Abdullah bin Baz, Dar Al-Fikr, Beirut, 1991 AD, Vol. 4, Part 8, Section 21, No. 7352, pg. 198; Al-Haythami, Nur al-Din Ali bin Abi Bakr, Majma' al-Zawa'idwamanbaealfawayid, Book of Judgments, Chapter of the Judiciary, Dar Al-Kitab Al-Arabi, 2nd Edition, Vol. 4, p. 193, Beirut, 1982.

importance of the judges themselves, who judge between people and settle their disputes. When the Islamic state expanded and Muslims mingled with others and the duties of the Caliph increased, independent judges were appointed to work on behalf of the Caliph in settling disputes and adjudicating what they differed in, which is represented in the judge and the judicial system.<sup>3</sup>

During the era of Banu al-Ahmar<sup>4</sup>, the judicial system developed remarkably, so I found it worthy of study. The focus was placed on this bright civilized aspect, which is one of the aspects of Islamic civilization, which left a clear impact on the regions of Europe later.

In Granada, Arab culture developed as a result of the discussion of ideas that enriched everyone's visions led to the development of awareness and made fanaticism recede. Granada soon became the third city in the world after Baghdad and Cordoba in the twelfth and thirteenth centuries AD, the place from which the light shined in Europe, and the obligatory crossroads for every great philosopher and scholar, Jewish and Christian Mozarabic scholars enriched Arab culture and developed their cultural heritage.

Arabic was the language of all, Judaism was protected by princes and caliphs and developed by enlightened rabbis, and lived its golden age. It is a unique moment in the history of the world in which all societies took full part in the development of the surrounding culture without losing any of its religious integrity. Among the institutions that developed as a result of civilization was the institution of the judiciary or judicial courts and later influenced Europe.

The Western Christian world was fascinated as much as it was afraid of this new religion that made the culture of Andalusia an art to live. Thus, at first,

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<sup>3</sup>bnSaad, Muhammad bin Saad bin Manea Al-Basri Al-Zuhri, Al-Tabaqat Al-Kubra, Dar Sader, part 2, Volume 2, Beirut W.D. p. 119-124; Al-Bayhaqi, Abu Bakr Ahmed, Bin Al-Hussein Bin Ali, Al-Sunan Al-Kubra, Book of Adab Al-Qadi, Hadith No. 20156, pp. 148-149; Al-Haythami, Majma' al-Zawa'id, Book of Judgments, Chapter on the Judiciary, p. 193.

<sup>4</sup>The Nasrid dynasty was founded in 1232 AD by Muhammad ibn Yusuf ibn Nasr ibn al-Ahmar, a military commander from the Khaen region. This period was marked by Christian attempts to reconquer the lands of Andalusia and the end of the Almohad era. He set up his capital in Granada from 1237 AD, and focused on defending the humble lands, which included the cities of Malaga and Almeria. The first Nasrid princes spent this period in consolidating their positions against the Castilians and settled in Granada, taking it as their capital. Reda Kahilah: On the History of the Fall of Andalusia, Cairo University, 1997, pg. 159.

the West led the policy of closure, and the effect was temporarily contained. However, it could not do this for a long time, and the attraction is irresistible. Translators from Italy and all over Europe set out to translate Arabic works into Latin. Italy was hit hard, and Ibn Rushd put religion and philosophy back and made it into the minds of every educated Westerner. The West has been born again, the light has returned, and from this light, it still shines on Europe today and in which you live.

### **Research problem**

The problem of the study lies in knowing the judicial system, the sensitive and important role in organizing and managing the various aspects of life in Andalusia, the aspects of the success of the judiciary in Andalusia, and whether the judge had a major role in the development and prosperity of this institution.

### **Study objectives**

- Getting to know the judicial institution and its activities in Andalusia.
- Explain the role of the judge within this institution.
- Identifying the various effects and their impact on the Andalusian society.
- Recognize the extent of development that it has reached.

### **Study importance**

Knowing the factors of success of the judiciary in Andalusia in general and their role in organizing public life in Andalusian society and its impact on its development, stability, and prosperity.

### **Study methodology**

The researcher followed the descriptive-analytical method, where he analyzed the events of history and came up with the most important factors that led to the role of the judiciary in Andalusia.

### **Study structure**

The research included the following structure

## **Chapter one**

### **The first requirement**

First: The Judiciary in the Umayyad Dynasty

Second: The judiciary in the Abbasid era

Third: judge requirements

### **The second requirement**

First: Plans for the judicial system in Andalusia

Second: the judge's assistants

Third: judges Correspondence

## **Chapter two**

### **The first requirement**

First: Unique characteristics of the judiciary in Andalusia

Second: One judge in the city

Third: Diversity of social and judicial responsibilities in the Emirate of BaniNusair

### **The second requirement**

First: The history of the judiciary in the era of Bani al-Ahmar

Second: Selection of judges in the Emirate of Banu al-Ahmar

Third: News of the judges (Bani al-Ahmar)

Fourth: The costumes of judges in the era of the state of Bani al-Ahmar

## **Chapter one**

### **The first requirement**

**First: The Judiciary in the Umayyad Dynasty**

**Second: The judiciary in the Abbasid era**

**Third: judge requirements**

### **First: The Judiciary in the Umayyad Dynasty**

Judiciary is a mandate that authorizes the people of the ruling to decide between disputes, which is: the ruling, the man has made judgments, meaning he became a judge who judges and decides on people's affairs. As for the scholars of jurisprudence and Sharia, they put the term qadaa in the sense of settling severe disputes between people.<sup>5</sup>

The judicial system witnessed important developments during the Umayyad era. The Umayyad Caliphs abandoned the practice of the judiciary as it was in the era of the Prophet and the Rightly-Guided Caliphs dispersed between the authorities, but they retained three important matters, which are the direct appointment of judges in the capital of the Caliphate, Damascus (the judge used to perform the judicial function that is one of the functions of the Caliphate, as he is the deputy of the Caliph in his judicial work)<sup>6</sup>, supervising the work and decisions of judges and following up on the matters of their appointment and dismissal, besides, supervising the judicial behavior of judges. The Umayyad Caliphs exercised the judiciary in complaints by enjoining good and forbidding evil. They dealt with the judiciary by complaints and established an independent commission for it.<sup>7</sup>

### **Second: The judiciary in the Abbasid era**

The administrative organization of the judiciary reached its peak in the Abbasid era when many judicial bodies appeared. The Abbasid Caliphs realized the importance of the judiciary since the establishment of their state. They tried to overcome the weakness that afflicted the judiciary at the end of the Umayyad Caliphate, where Caliph Abu Jaafar Al-Mansur, the true founder of the Abbasid Caliphate, saw that the judge was one of the four pillars that the state could not do without.<sup>8</sup>

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<sup>5</sup>Ibn Manzur Jamal al-Din: Lisan al-Arab, a judged article, Dar al-Maaref 1979, Cairo, edited by Abdullah Ali al-Kabir, p. 365.

<sup>6</sup>Zidan, Abdel Karim, The Judicial System in Islamic Sharia, 3rd Edition, Al-Resala Foundation, Beirut, 1998 AD, p. 33.

<sup>7</sup>Wakee', Muhammad bin Khalaf: akhbaralqudaat, Investigated by Abdul Aziz Al-Maraghi, 1947 vol. 1, p. 104, vol. 2, p. 269, vol. 3, p. 116.

<sup>8</sup>Hassan Ibrahim Hassan: The History of Political, Cultural and Religious Islam, The Egyptian Renaissance Library, 1967, Cairo, vol. 1, p. 489.

The chief judge was appointed in the capital, Baghdad, but he had the right to appoint, monitor, and dismiss judges from the states. Therefore, the judiciary was completely independent under the Abbasid Caliphate. The famous judge Abu Yusuf died (182 AH), the judge and minister of the Abbasid Caliph Harun al-Rashid, was the first judge entitled to appoint, monitor, and dismiss judges of the states and was entitled to appoint judges in Iraq, Khorasan, Egypt, and the Levant.<sup>9</sup>

### **Third: judge requirements**

The judiciary has been and continues to be, the most important function in the State because of the great tasks and interests on which it depends, which are reflected on the stability, organization, and righteousness of society. However, many jurists are not interested in this profession "As a result of the affliction of the judiciary, many have left it<sup>10</sup>." Whoever assumes this sensitive position should have a high degree of qualities that he must possess. This is because it was not easy for anyone to assume this position except for those who possess conditions that qualify him for this position, including that the judge should be a Muslim. It is stipulated that whoever takes over the judiciary must be a Muslim man, so it is not permissible for women to occupy the position; Ibn Qudamah confirms this and the saying of the Prophet, peace, and blessings be upon him (and his family), "A people who make a woman their ruler will never be successful."<sup>11</sup>, another condition is that the infidel should not take the position of the judge<sup>12</sup> as well as puberty and intellect, thus, the boy should not take the position of judge, besides, he should be clear-sighted, sharp-minded, and free, then it is not permissible for the slave to assume the judiciary so that he cannot be a witness, and to be just, chaste, merciful, not violent, sound senses, that is, he is not deaf or mute or other diseases that may hinder the work that prevents

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<sup>9</sup>Al-Khatib, Al-Hafiz Abu Bakr Ahmed bin Ali Al-Khatib: History of Baghdad, Cairo, 1931, vol. 5, p. 75, vol. 12, p. 245. Al-Mawardi was the first to be called the Judge of Judges in Baghdad 450 AH/1037 AD; Al-Husseini, Ali Bin Al-Hussein: News of the State of the Seljuks, Lahore Publishing, 1933, p. 85.

<sup>10</sup>Al-Nabahi, Abu Al-Hasan bin Abdullah: The History of the Judges of Andalusia, investigated by the Arab Heritage Committee, Beirut, 1983, p. 11.

<sup>11</sup>Ibn Qudamah, Muhammad bin Abdullah bin Ahmed bin Qudamah Al-Maqdisi (died 630), Al-Mughni, 3rd edition, Dar Al-Manar, Egypt, 1367 AH, vol. 9, p. 39.

<sup>12</sup>See: Ibn Rushd al-Qurtubi, Abu al-Walid Muhammad ibn Ahmad, Bayaat al-Mujtahid and Nihayat al-Muqtasid, Book of Judgements, Part One, 10th edition, Dar al-Kutub al-Ilmiyya, Bayut, 1988 AD, Volume 2, pg. 460; Zidane, p. 224.

him from assuming the Judicial position<sup>13</sup>. Also, the judge must be diligent and knowledgeable in the religious principles that elicit legal rulings<sup>14</sup>. The judges of Andalusia were an example of justice, truth, and equality, and they were of high intelligence, no one was afraid or inclined from right to wrong, and this is what strengthened the position and role of judges in Andalusian society.

## **The second requirement**

### **First: Plans for the judicial system in Andalusia**

#### **Second: the judge's assistants**

#### **Third: judges Correspondence**

### **First: Plans for the judicial system in Andalusia**

The first plan: The Shura plan with which Andalusian and Moroccan society was singled out, the consulted jurists are the ones who were asked by the judge and he did not proceed to a matter without their advice<sup>15</sup>.

The second plan: the Hesba plan and the rules of the market, its limits, competencies, and its development since the era of the emirate, that is related to the judicial supervision of markets and what is related to land and sea roads.

The third plan: the city's plan. The city's specialist is called the owner of the city, controlling the conditions of society and maintaining security and stability. This plan was transferred to Spain, and this plan was characterized by a degree of sophistication and completeness.

Fourth plan: The police plan and the relationship between it and the city plan, its division into a higher, middle, and junior authority, its duty are managing the city and maintaining its security and safety.

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<sup>13</sup>Ibn Qudamah, same reference, p. 40.

<sup>14</sup>See: Al-Mawardi, Abu Al-Hassan Ali bin Muhammad bin Habib, The Etiquette of Judges, investigative: Muhi Hilal Al-Sarhan, Press: Al-Irshad, Baghdad, 1971 AD, vol. 1, pp. 621-625, pp. 635-637; Al-Kasani, Aladdin Abu Bakr bin Masoud, Bada' Al-Sana'a in the arrangement of the laws, Book of Adab Al-Qadi, 2nd Edition, Dar Al-Kutub Al-Ilmiyya, Beirut, 1986, vol. 7, pg. 3.

<sup>15</sup>Al-Khashni, Abu Abdullah Muhammad bin Harith bin Asad Al-Qayrawani, Judges of Cordoba, Egyptian House of Composition and Translation, Cairo, 1966, p. 118.



The fifth plan: The (response) plan: It is similar to the Court of Cassation in our time, reviewing the judgments and reversing the errors contained in the judgments.<sup>16</sup>

The Sixth Plan: The Grievance Plan to look into the injustices committed by officials and senior men of the state among citizens, whether they are Muslims or dhimmis.<sup>17</sup>

Seventh Plan: Inheritance Plan “Looks at the matter of guardians”<sup>18</sup>, it is what is related to the jurisprudence of inheritance and what is related to the issue of inheritance and its provisions according to a vision, legitimacy, and religion.<sup>19</sup>

Thus, we see that the task of the judge was not limited to the judiciary and the end of disputes only, but also to the various aspects of life and the supervision of ensuring the rights of individuals, and the stability of the general conditions of society.

## **Second: the judge's assistants**

First: The judge's clerk: the court clerk who was responsible for documenting the parties' statements and testimonies until the judge heard the litigants and witnesses. He was also responsible for arranging lawsuits in the presence of the litigants and then presented them to the judge without prejudice, except for those who traveled or those with excuses<sup>20</sup>. The writer should be chaste, righteous, and intelligent, and his seat should be close to the judge so that he can read what he writes<sup>21</sup>. The clerk should sit in front of the judge so that the ruler (judge) watches what he writes<sup>22</sup>. The tasks of the

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<sup>16</sup>Al-Khishni, a previous reference, p. 13, 41, 117 p. Ibn al-Fardi, Abu al-Walid Abdullah bin Muhammad bin Yusuf bin Naseer, The History of Andalusian Scholars, ed.: Rawhiya Abdul Aziz, Dar al-Kutub al-Ilmiyya, Beirut, 1997 AD, p. 275.

<sup>17</sup>Al-Khishni, a previous reference, p. 119.

<sup>18</sup>Ibn Qudamah, a previous reference, vol. 9, pg. 48.-18.

<sup>19</sup>Al-Mawardi, The Etiquette of the Judge, vol. 1, p. 173; Farhat, Youssef Shukri: Granada in the Shadow of the Red, Beirut, 1981, pg. 445.

<sup>20</sup>Al-Mawardi, Abu Al-Hasan Ali bin Muhammad Al-Basri: Royal Rulings and Religious States, investigated by Nabil Hayawi, Beirut 1968, p. 103.

<sup>21</sup>Ibn Abd al-Bar, Abu Omar Yusef bin Abdullah bin Muhammad al-Nimri al-Qurtubi, al-Kafi fi Fiqh of the People of Medina, Book of Adab al-Qadi, Dar al-Kutub al-Ilmiyya, Beirut, 1987, pg. 498.

<sup>22</sup>Ibn Qudamah, previous reference, vol. 9, p. 73.

judge were difficult and arduous since judiciary represented the foundation and cornerstone of building a healthy state, and it was wide-ranging, arduous, and meticulous in its decisions. Here, there must be people who help the judge in reducing the burdens of this difficult and sensitive task, especially after the expansion of the geographical area of the state, and these people succeeded from one judge to another as needed.

Second: The guard: the person who usually organizes the entry of litigants, usually he is a member of the police or guards to be a guard for the judge<sup>23</sup>. He organizes the work of the judge, maintains order, and orders the sitting of men and women in the courtroom.

Third: Guardianship: in Andalusia, the protection tasks were entrusted to the judiciary and the execution of judgments issued by the judge against the perpetrators and the accused. They were carefully selected, and they were followed up in completing the tasks assigned to them.<sup>24</sup>

Fourth: The case officer, whose position was created in the Abbasid era, was responsible for examining the cases that the judge asked him to consider. Muhammad bin Abd al-Rahman bin Abu Laila, a friend of Abu Hanifa, was the first to seek this assistant. Al-Kindi said that Almufawad Bin Fadala, who took over the judiciary in Egypt in the year (174 AH) had a case officer who would ask about witnesses and verify their justice. This post moved to Andalusia.

Fifth: The distributor: He is responsible for distributing rights to litigants and drawing the boundaries between their properties, as the accountant was called. Al-Mawardi defined the characteristics and conditions of that position.<sup>25</sup>

Sixth: Trustees: They are those whom the judge assigns some functions, such as preserving the money of orphans, minors, the incompetent, and absentees, and keeping the money until it is divided among the heirs. Judge Siwar bin Abdullah was the first to use the employees and assigned them the

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<sup>23</sup>Al-Khishni, Judges of Cordoba, pg. 69.

<sup>24</sup>Al-Nabahi, Abu Al-Hassan bin Abdullah: The History of the Judges of Andalusia, investigation by the Arab Heritage Committee, Beirut 1983, pp. 55-56; Al-Khishni, previous reference, pg. 57-61, 78-79.

<sup>25</sup>Same source, p. 123; Shaukat Arian: The Court of Grievances, Egypt, 1980, pp. 83-84; Afaf Sabra, Mustafa Hanawi: Islamic Systems, Al-Rasheed Press, Egypt 2004, Part 1, p. 182.

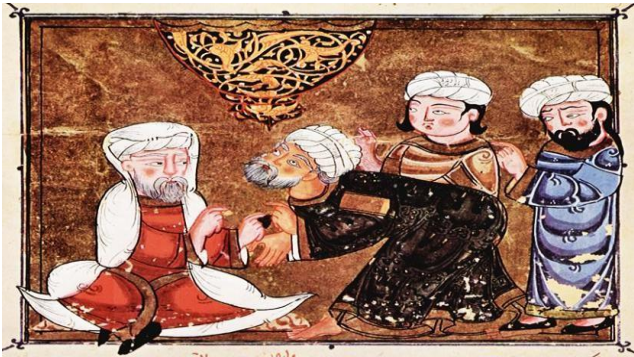
task of preserving the money, the givers who purify the witnesses, and the ones who testify with justice.<sup>26</sup>

Seventh: The Court Treasurer: He is responsible for keeping the judge's papers, documents, records, and filings in a special place.<sup>27</sup>

Ninth: The caller: He is the one who stands behind the judge to call the opponents.

Tenth: The translator: He is responsible for translating the statements of non-Arab plaintiffs and litigants. "The judge employs a fair translator or two or more just translators."<sup>28</sup> The number of translators increased in the Abbasid era when many people joined Islam and the Islamic Caliphate.<sup>29</sup>

The manifestations of many and varied experiences in Islamic civilization. What is surprising is the procedure taken to bring litigants before a judge. In Andalusia, judges applied an innovative system, the "seal" system. The judge would place his signature and seal on a paper that he sent to the litigants without any difference between a prince and an ordinary man<sup>30</sup>



### **Maqamat al-Hariri Abu Zeid interviews the judge in Baghdad**

### **Third: judges Correspondence**

<sup>26</sup>Al-Khishni, Judges of Cordoba, p. 110; Arnous: History of the Judiciary in Islam, Al-Azhar Colleges Library, Egypt, 1934, p. 129.

<sup>27</sup>Ahmed, Shukri Youssef: The Judiciary in Andalusia from the Era of the Emirate to the Era of the Caliphate, Al-Azhar University, 2010, p. 2539.

<sup>28</sup>Zaidan, previous reference, p. 57.

<sup>29</sup>Ahmed, previous reference, p. 2540.

<sup>30</sup>Ibn Al-Khatib, Al-Ihatah, Part 1, p. 130.

The judges communicated with other jurists, whether they were in charge of the judiciary or not, for several purposes. It is to ask for opinion and advice to solve an issue, even to decide on it. The essence of the judges' work is to consult with the jurists, yet the judge has the choice between taking the advice or not, in the end, his judgment would be adopted<sup>31</sup>. In Andalusia, the category of consulting jurists emerged, and they are a group of jurists appointed by the emir or caliph, and they have a chief, and their task is to provide jurisprudential advice in rulings that require the judiciary to decide on them<sup>32</sup>.

There is a correspondence between judges, other than seeking opinion and advice, which consists in receiving orders from a judge, the highest authority from the judge sent to him, the Congregational judge for example<sup>33</sup>. This gives the Congregational judge the right to advise his judges or certain administrative orders.

## **Chapter two**

### **The first requirement**

#### **First: Unique characteristics of the judiciary in Andalusia**

#### **Second: One judge in the city**

#### **Third: Diversity of social and judicial responsibilities in the Emirate of BaniNusair**

#### **First: Unique characteristics of the judiciary in Andalusia**

In Andalusia, it can be seen that the composition and characteristics of the legal institutional component are, in general, not different from those in the East and North Africa, although, as we will see later in Andalusia, the judicial system was settled during the period of governor and emirates (8th and 9th centuries), on the administrative form established by Emir Abd al-

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<sup>31</sup>- Manuaeale, Makim, "SURA ET AL-SURADANS AL-ANDALUS", *StvdialIslamica*, LXII, 1985, P51.

<sup>32</sup>Muhammad Al-Habib Al-Tijkani, *The General Theory of Judiciary and Evidence in Islamic Sharia* (Baghdad: House of General Cultural Affairs, (no date)), p.149.

<sup>33</sup>Salama Muhammad Salman Al-Harfi, *The Almoravid State during the Era of Ali bin Youssef bin Tashfin* (Beirut: Dar Al-Nadwa Al-Jadida, 1985), p.266; Dhafer Al Qasimi, *The System of Governance in Sharia and Islamic History (Judicial Authority)* (Beirut: Dar Al-Nafais, 1978), p. 427.

Rahman II (822–852), with some differences during the Emirate of Taif (11th century).), the Almoravid dynasty, and the Almohad Caliphate (12th century), and even during that period, the Nasrid dynasty in Granada (thirteenth and fifteenth centuries)<sup>34</sup>



### **Abu Zayd with the judge, Maqamat al-Hariri**

The judge in Islamic jurisprudence aims to achieve justice, and it was a job limited to personal matters (marital disputes, inheritance, etc.) and civil cases involving a member of the community<sup>35</sup>. For example, violating contracts, covenants, religion, commercial matters, etc., and may combine the judiciary and the ministry until he ascended to the jurisdiction of the Judiciary in Cordoba, combining the plan of the ministry and prayer.<sup>36</sup>

Al-Nabahi (fourteenth century) mentioned some of the specific functions of the judge in ancient and modern times. The judge's ruling on ten provisions includes the first of which is to stop quarreling and the fulfillment of the right to those who demand it, the third, the obligation of guardianship to the foolish and the insane, and confinement to the bankrupt to preserve the money, the fourth is the consideration of imprisonments, the fifth is the implementation of the wills on the conditions of the benefactor if they agree

<sup>34</sup>Ibn Al-Qoutiah, Abu Bakr bin Muhammad, The History of the Opening of Andalusia, edited by: Abdullah Anis, Beirut 1957, p. 19.

<sup>35</sup>Al-Maqri, Shihab al-Din Ahmed: NafahAltayib Min GhushAlaindsAlratib, part 2, p. 41;Harout, Abdel Halim Hussein Jadoua, Diwaniyah Letters in the Kingdom of Granada in the Era of B Al-Ahmar, Master's Thesis, Jordan 1994, p. 97.

<sup>36</sup>Al-Nabahi, Abu Al-Hassan bin Abdullah: The History of the Judges of Andalusia, called the Supreme Monitor, who deserves the judiciary and the fatwa, edited by: The Arab Heritage Committee, Beirut 1983, p. 8.

with the Sharia, the sixth is to marry qualified female servants, the seventh is to establish the punishment, the eighth to consider the public interests, the ninth is the witnesses and the trustees' inspection, The tenth is the aspects of compromise in ruling between the strong and the weak, and the pursuit of justice among honorable<sup>37</sup>.

Besides, he provides some advice, for example, the judge must listen to the litigants, do justice to the oppressed, and strive to reach a satisfactory result in each case, while adhering to Islamic law. They should take care of the interests of the insane and the mentally retarded as well as judging wills and inheritances, dealing with marriages and orphans, managing assets from pious donations, ensuring highway safety, punish lawbreakers: thieves, adulterers, and drunkards shall judge equally, moreover, they shall at all times choose faithful witnesses who are known to be respected, appreciated and honored<sup>38</sup>.

## **Second: One judge in the city**

The judge's jurisdiction is not entirely clear. Although it was normal to find one judge in each city, many cities had more than one judge at the same time. The term of office in Andalusia was very different, ranging from those who served for one day, to those who held justice in a city for 40 years.<sup>39</sup>

Thus, to hold the position of (judge) in Andalusia, one needed to possess any formal qualifications, and to have a special knowledge of Sharia and its provisions, (This function was carried out by members of the QadiShura Council, in keeping with the teachings of the founder of the Maliki school, Malik bin Anas, that they were first and foremost to be just, righteous, wise and virtuous men in their legal treatises, and included lists of requirements which a judge must fulfill some of which were mandatory<sup>40</sup>, while others were not a prerequisite, they were mandatory requirements<sup>41</sup>

Despite this, some have assumed the position of Chief Justice at an early age, and there is no age requirement in the tradition of the judiciary, some

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<sup>37</sup>ibid., p. 7, 60; Muhammad Abdul-Wahhab: Islamic Cordoba, Cairo 2009, p. 220.

<sup>38</sup>Ibid, p. 222

<sup>39</sup>Al-Rahim, Abdul-Hussein Ibrahim: A History of Arab-Islamic Civilization, The Open University, Tripoli, 1925, p. 32.

<sup>40</sup>Joyber, Abdul Rahman: Islamic systems and people's need for them, Medina 2002, p. 16.

<sup>41</sup>See: Al-Nabahi: History of the Judiciary in Andalus, p. 4-12.

have assumed the position of judge at the age of twenty, twenty-two, or thirty-second. Nevertheless, it seems that the age of forty was considered "the limit of maturity and sophistication", it is desirable that prestige, dignity, and age appear on the judge so that it is not said that he is still a young man of lack of experience. As for the position of the Chief Justice, no one in his twenties or thirties has ever held the position, even if a specific age has not been set for his assumption.<sup>42</sup> This post has traditionally been held by a judge with long experience in the judiciary, with prestige and dignity, as well as age.

The desired requirements were: that the judge should seek sufficient knowledge of the Arabic language and that they also had a basic knowledge of documentation, it was recommended that he be pious and should be wealthy, so as not to fall into the temptation of bribery if they were poor, the Emir or the Caliph had to pay them for their work. They needed to be patient, benevolent, tolerant, compassionate, and humane, especially towards orphans and widows. The judge had to be knowledgeable about religious matters to avoid blaming and criticizing others. They must also be respectful and firm in their judgments. They should not be of illegitimate birth, nor be subject to insults. The judge needed to be a skilled person, and take great care in his deliberations. A judge, apart from his purely judicial functions, was sometimes also responsible for managing religious institutions and economic organizations of a religious nature (endowments or religious endowments) and supervising a wide range of social services aimed at religious endowments<sup>43</sup>. This means controlling a large part of what can nowadays be referred to as the municipal budget for social services. There, wills and dealing with marital matters, which include young women who lack a legal guardian. The chief judge and the rest of the judges are assisted by the court of jurists or shura, made up of two or four jurists, (the mufti) known as Faqih Shura, who can give opinions when one of the parties asks them to do so<sup>44</sup>.

In other words, the moral prestige of the Andalusian judge, and their supposed detachment from worldly matters, gave the judge a social

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<sup>42</sup>Al-Mawardi: *Al-Ahkam Al-Sultaniya*, p. 15.

<sup>43</sup>Al-Andalusi, Abi Bakr Muhammad bin Asim: *Tuhfat Alhukaam Fi Nakth Aleuqud Walahkam*, Egypt 2011, p. 18.

<sup>44</sup>Al-Mawardi: *Al-Ahkam Al-Sultaniya*, p. 51.

significance that had a decisive influence on Islamic society and this, in turn, led to the establishment and development of the state, in contrast to the authorities who are increasingly trying to exercise their control over the judges once they are appointed.

### **Third: Diversity of social and judicial responsibilities in the Emirate of BaniNusair**

As expected, the number and variety of social and judicial responsibilities mean that they need an increasing number of associates and assistants, as well as the appointment of special or assistant judges. Let's take a look at the different types of judges and their jobs

- Aid judge or (judge in the army) in the East and the early records of Andalusia, it appeared that there is a judge who goes with the armies for jihad and to meet the enemy in the invasions, and to resolve the disputes that occur between soldiers or between leaders and to supervise the delivery of salaries and non-oppression and supervision of the care of prisoners, until the era Prince Mohammed V.<sup>45</sup>
- Congregational judge: Their functions were similar to that of the so-called chief judge (qadi al-qadat) in the Abbasid East, although, in Andalusia they did not come to the role of the highest judicial authority as in the East without becoming a minister of justice or anything like that, judges were appointed by the Umayyad princes of Andalusia during the ninth and tenth centuries and were tasked with supervising and investigating the behavior of other judges who had been the subject of a complaint.<sup>46</sup>
- A Christian judge, a Christian judge who was assigned to solve disputes among Christians when a complaint occurred, or when a dispute arose between a Christian and a Muslim. It should be noted that the rare information related to this type of judiciary is rare in the historical records preserved in Andalusia.<sup>47</sup>
- Marriage judges were responsible for all matters relating to marriage. Judging by the frequent references in contemporary sources and the

<sup>45</sup>Al-Nabahi. The History of the Judges of Andalusia, p. 82; Al-Samani, Abu al-Qasim Ali bin Muhammad, Rawdat al-Qudat and the Path of Salvation, edited by: Salah al-Din al-Qadi, Beirut, 1984, part 1, p. 53.

<sup>46</sup>Al-Nabahi, previous source, vol. 1, p. 54.

<sup>47</sup>Al-Gharnati, Abu Al-Qasim Muhammad Al-Sabti: Rafae Alhujub Almustawrat Ean Mahasin Almaqsura, edited by: Muhammad Al-Hajouri, Morocco 1997, p. 29.



- abundance of practical examples on this topic in the legal treaties of the time, they are undoubtedly very popular and well-known.
- Water judge, there are limited references to the existence of a water judge, whose powers included the ability to arbitrate disputes arising from the right to irrigation.
  - The border judge, this judge works with wider authorities, in the border areas in Andalusia. This position was famous during the time of the Nusayri dynasty.<sup>48</sup>

In addition to these special magistrates with specific functions, there were a series of minor magistrates in al-Andalus who were, in practice, individuals to whom the magistrate delegated certain functions and tasks, and who are directly dependent on them. The three most important are:

- Hakim: a term used occasionally in place of a judge - especially by Eastern writers - who have up to the present been a somewhat ambiguous figure. For some writers, they were judges charged with administrative justice while for others, they were civil servants responsible for carrying out a judge's judgment. As for other clerks, such as the official of documents, their functions may be confused with those of the magistrate, the assistant magistrate who carried out the rulings of the judge, who became an increasingly important figure in the legal apparatus of Andalusia, but was initially a kind of junior judge, tasked with managing small affairs or working in poor neighborhoods or places where a judge needed to work on resolving disputes.
- Musadad, according to the writer Ibn Sa'id (thirteenth century)<sup>49</sup>, this position was a kind of magistrate with limited powers, similar to contemporary Spanish peace justice, which settled disputes in towns and small villages.
- Deputy Judge. They acted as a substitute for the judge with full powers to resolve legal cases of all kinds.<sup>50</sup>

We have already seen that the judge alone does not have the power to rule regardless of the emir or the caliph and their complete freedom to rule on a case whenever they want. Several institutions acted as

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<sup>48</sup>Al-Nabahi, History of Judges, pg. 60-64.

<sup>49</sup>Al-MaqriNafh Al-Tayyib vol. 1, p. 220; and an article translated on the internet now <https://2u.pw/ZYuuT>.

<sup>50</sup>Ibn Al-Khatib: Al-Ihatah, vol. 2, p. 103.

secondary judges. Among their functions was the ability to judge and pass judgments in certain cases. At least five other institutions possessed this capacity in Andalusia: the owner of the market, the owner of Sharia, the owner of documents, the owner of the grievances, and the owner of the records.

- The market owner (Qadi al-Hisba), their role in Andalusia was studied extensively before they held an important position in the municipality, being responsible for the market, in particular, for example in their ability to act as arbitrator in disputes between employers and employees, as well as in other cases in which it was not necessary to provide evidence or in which, in theory, the rights of one party were not contested by the other. Unlike the judge, the market lord can take the initiative, without waiting for the litigants to come to them or file a complaint, trying to avoid disputes.<sup>51</sup>
- The owner of the police: they were charged with imposing justice, police force, and using their powers and authorities in those cases in which the judge delegated them, in civil or criminal matters, that if he was unable to solve a particular case to issue a ruling or decide major cases, he had to take it to the competent judge, who in turn was more flexible, and the police had a wide range of corrective penalties at their disposal.<sup>52</sup>
- The owner of the records. This was essentially an institution that any Muslim could appeal to if he felt that he had been harmed or wronged because of an unfair decision. Special cases have been heard, and although they had extensive prerogatives in the East, as we have seen earlier, they did not influence much in Andalusia<sup>53</sup>, as evidenced by the few references to the written in the sources and records of al-Andalus.

From the foregoing, we can see that the legal structure of Andalusia in general, the legal apparatus in Muslim Andalusia, possessed a worthy

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<sup>51</sup>See: Ibn al-Khatib, *ibid*, vol. 2, p. 8; Shawqi, Abu Khalil: *The Arab Islamic Civilization*, Dar al-Fikr, Damascus, 1996, p. 300.

<sup>52</sup>See: Al-Nabahi, previous reference, p. 5; Fernandez Moreira, Dario, *The Andalusian Myth of Paradise: Muslims under Islamic Rule in Medieval Spain* (Wilmington, 2016), Chapter 3, *The Daily Realities of Andalusia*, pp. 83-118.

<sup>53</sup>Harris, K. *From Muslim to Christian Granada: The Invention of the City's Past in Early Modern Spain* (Baltimore, 2007).p. 23.

development of the central states and possessed a strong administrative network.

### **The second requirement**

**First: The history of the judiciary in the era of Bani al-Ahmar**

**Second: Selection of judges in the Emirate of Banu al-Ahmar**

**Third: News of the judges (Bani al-Ahmar)**

**Fourth: The costumes of judges in the era of the state of Bani al-Ahmar**

### **First: The history of the judiciary in the era of Bani al-Ahmar**

We have tried to collect what was available from the books on the judiciary and judges in the state of Bani al-Ahmar, the Kingdom of Granada, which extends from (635-897 AH / 1238-1492 AD).

Wide powers were given to the judge, and the position of (Congregational judge)<sup>54</sup> was one of the highest judicial positions in the country of Andalusia and was corresponding to the position of chief judge in the Arab Islamic Mashreq, as mentioned above, and he was assisted by an assistant judge known as (the owner of judgments), in the event of the absence or failure of the judge to carry out his duties for any reason, he would be represented by another judge, and this was common in Andalusia<sup>55</sup>. He is also assisted by the market owner who is directly responsible for market accidents in general and is also responsible for implementing debt obligations and prosecuting counterfeiters and fraudsters. The judge in Granada at the same time combined his position as a judge with the position of the preacher of the Alhambra, or the preacher of the Great Mosque, and that was one of the high religious positions at the time. The judiciary in the era of Bani al-Ahmar and perhaps most of the emirates of Andalusia and since an early age followed the Maliki doctrine, perhaps since the late second century AH. The judge

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<sup>54</sup>Al-Nabahi: Judges of Al-Andalus, p. 18; Al-Maqri, Nafh Al-Tayyib, Vol. 1, p. 217-218; Ibn al-Khatib, allamha, p. 31.

<sup>55</sup>Ibn Bashkwal, Abu al-Qasim Khalaf bin Abd al-Malik (d. 578 AH / 1182 AD), the link in the history of the Imams of Andalusia, Inv. Sayyid Izzat al-Attar, 2nd floor, Al-Khanji Library, Cairo, 1955 AD, p. 199; Al-Nabahi, History of Judges, p. 86.

was appointed by a royal decree or what is known as the (Dahir)<sup>56</sup>. It is the term that refers to royal decrees and laws. Each city had its judge and orator, and Banu al-Ahmar followed a policy that only the most senior scholars and jurists who were known among the people for their virtue should occupy judicial positions, and this is what caused the prosperity and social stability that the state of Banu al-Ahmar enjoyed.

The mandate or the mission of the Hesba also followed the judiciary<sup>57</sup>, it is a religious function based on enjoining good and forbidding evil, chasing those who commit evil, practicing punishment and discipline according to their rules, working to respect the legal rulings, suppressing fraud and embezzlement in transactions, living matters and monitoring weights and scales. Among his other duties was to get people to perform public interests such as paving roads and lighting at night. Judge Abu Bakr Muhammad bin Fath al-Ansari al-Ishbili, who died in 698 AH, was one of the most prominent men of Hisbah and police in the Kingdom of Granada.<sup>58</sup>

Al Hisbah job is also responsible for following up on the market movement during the Nusayris state, where the Muhtasib is accompanied by several writers, bearers of scales, weights, and containers, and he tours the market to suppress fraud and embezzlement, monitors the weights, measures, and sizes monitors the stores of goods and throws the spoiled food. Among the public interests carried out by the Muhtasib during the era of the Nusayris state was to monitor the streets, repair and pave them, organize the waste department, prevent the dumping of waste in the streets and squares, monitor the weavers and dyers by not spreading dresses and textiles in the streets above the heads of passers-by, and other things that are related to the comfort of the city and its appearance with a beautiful view that pleases the onlookers.<sup>59</sup>

One of the famous personalities in the field of Hisbah is Abu Bakr Muhammad ibn al-Ashbirun, “the guardian of al-Hisbah in Granada<sup>60</sup>, then” who took over the administration of the market in Granada during the days

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<sup>56</sup>Same reference, p. 12.

<sup>57</sup>Al-Khishni, Judges of Cordoba, p. 41.

<sup>58</sup>Al-Muqri, Nafh al-Tayyib, vol. 1, p. 217.

<sup>59</sup>Al-Nabahi: History of the Judges of Andalus, p. 140.

<sup>60</sup>Ibn Al-Khatib, Al-Ihatah, vol. 2, p. 80.

of Muhammad ibn Yusuf the First (1238-1273 AD).<sup>61</sup> Then, he was promoted to the position of the judge during the reign of Muhammad II (1273-1302)<sup>62</sup>. Among the famous Hisba men is Muhammad ibn Ali al-Zuhri, who assumed the mandate of the city of Malaga in (730 AH / 1329 AD).<sup>63</sup>

Therefore, Sultan Abu Abdullah Muhammad bin Yusuf (635-762 AH / 1237-1273 AD), the founder of the Sultanate of Granada, realized the role that clerics, especially judges and jurists, could play in determining his young state. Therefore, we find that he paid more attention to the religious side, and he consulted with advice makers in a council where notables and Congregational judges attend<sup>64</sup>. The judges of Granada were an example in achieving social justice that is fair to the oppressed, and Andalusia took from the last Islamic emirate the structure of the judicial and administrative apparatus and moved to Europe later to be the building block on which the legal and judicial structure was founded in most Western countries.



**The Aghlabid emblem, which is a slogan engraved on the walls of the Alhambra Palace in Cordoba, means (there is no victor but Allah) and the judge took this phrase as a slogan.**

## **Second: Selection of judges in the Emirate of Banu al-Ahmar**

From the sources of Islamic history and the literature on the news of judges in Al-Andalus, it seems to us that the first-hand officers of the judiciary are

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<sup>61</sup>Ibn al-Khatib, Lisan al-Din Muhammad bin Abdullah (died 776 AH / 1374 AD). Al-Lamaha Al-Badriya, edited by: Mohi Al-Din Al-Khatib, Al-Salafi Press, Cairo, 1347 AH, p. 28.

<sup>62</sup>Ibid, pg. 30-51.

<sup>63</sup>Same reference, p. 223.

<sup>64</sup>Ibn Al-Khatib, Al-Lamaha Al-Badriya, pg. 31.

the Emirs, in the presence of senior statesmen and the Emir's advisers, given the importance of this post and its great standing.<sup>65</sup>

The jurisdiction of the judiciary is held by attendance, orally, and with absenteeism, writing, or correspondence, and there are special words uttered by the jurist who wants to take over the judiciary. There are special words that the jurist who wants to take over the judiciary utters. He utters it verbally, and it is four explicit words, so he says (I have appointed you, imitated you, depute you, bequeathed you), the metaphor includes seven words that the judge repeats, and they are (I have relied on you, have counted on you, I have entrusted to you, I wished you, made you, delegated you, entrusted you, and assigned you)<sup>66</sup>

what the Andalusian al-Nabahi al-Malqi narrates in his book *The History of the Judges of Andalusia* that Prince Al-Hajjaj Abu Yusuf I (1318-1354 AD) took over the metropolis of Granada, Abu Al-Hasan Al-Nabahi, as the Congregational judge, and he is the author of the book {*The History of the Judges of Andalusia*}.<sup>67</sup>

### **Third: News of the judges (Bani al-Ahmar)**

Lisan Al-Din Al-Khatib mentioned in the events of two important books on the news of the judges of Granada, the first (*Al-Ihatah*) and the second book (*Al-Lamha Al-Badriya*)<sup>68</sup> the names of those who took over the judiciary, and we will suffice with mentioning those who excelled and had a role in this field. Muhammad I (635 AH-672 AH / 1238 AD-1273 AD), successively appointed seven judges, the last of whom was Abu Bakr Muhammad bin Fath al-Ishbili, nicknamed Al-Ashbiron (died 698 AH)<sup>69</sup> and kept him in his position until his death. Abu Abdullah Muhammad bin Hisham assumed his position and died during the days of Muhammad III (1302-1309 AD), and when he died, Muhammad Aba Jaafar Ahmed bin Muhammad al-Quraishi, who became the Congregational judge during the rule of Nasr bin Muhammad (1309-1314 AD), succeeded Judge Al-

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<sup>65</sup>Al-Mawardi, *Judicial Ethics*, Part 1, p. 142-153.

<sup>66</sup>Farhat: *Granada in the shade of Bani al-Ahmar*, p.

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<sup>68</sup>Al-Khatib: *alaihata*, vol.3, p. 40.

<sup>69</sup>Ibid, vol. 2, p. 804.

Qurashi Ismael Bin Faraj Abu Bakr Yahya Bin Masoud Bin Ali and continued as a judge until he died.<sup>70</sup>

As for Prince Muhammad bin Ismail IV (1325-1333 AD), several people took over the presidency of the judiciary during his reign, the last of whom was Muhammad Sheikh Al-Faqih Abu Abdullah Muhammad bin Yahya Al-Ash'ari Al-Malqi. Abu Abdullah, good-natured, was down-to-earth, frugal in clothes and food, and the chief sheikh in his country, then he was the ruler of public speaking and the judiciary in Granada<sup>71</sup>. He continued to rule until his martyrdom in the Tarif incident<sup>72</sup>. Four judges were appointed after him, respectively, four of the jurists: Abu Abdullah bin Ayyash, Abu Jaafar bin Bartal, Abu Al-Qasim Al-Sabti, and Abu Al-Barakat bin Al-Hajjaj. The latter was relieved of his position and Abu Al-Qasim Al-Sabti was reinstated, who was renewed by Muhammad V. He remained until his death (760 AH / 1369 AD), - Abu Al-Barakat Al-Balfiqi<sup>73</sup> was one of the prominent in the eighth century AH, he grew up in Almeria, and after a long journey in the Maghreb for science and scholars, he returned to Andalusia and took over the judiciary in a large number of its countries. He took over the judiciary in (717 AH / 1317 AD), in the city of Shabeelesh, by Sultan Abu Al-Walid Ismail (713-725 AD / 1314-1325 AD), after which he took over the judiciary and rhetoric in Granada<sup>74</sup>. As for Ismail bin Yusuf, two jurists, Abu Bakr Ahmed bin Juzy and then Abu al-Qasim Salmon bin Ali bin Salmon, took over the judiciary despite his short reign. When Muhammad V regained the kingdom (755-760 AH / 1354-1359) AD, he appointed Abu Al-Barakat to judge the community in the entire Sultanate of Granada, then he soon sent him to embassies for sultanistic purposes, and he kept moving from country to country, until he finally settled in Almeria, as a

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<sup>70</sup>Farhat: Granada in the shadow of Bani al-Ahmar, a previous reference, p. 38.

<sup>71</sup>Ibn Hajar al-Asqalani, Shehab al-Din Ahmad (d. 852 AH / 1444 AD). *Aldurar Alkaminat Fi Aeyan Almiat Althaamina*, Dar Revival of Heritage, Beirut, without history - p. 284.

<sup>72</sup>The Battle of Tarif, called in Spanish literature the Battle of Rio Salado (Spanish: Batalla del Salado) is a battle that took place in Andalusia on the thirtieth of October 1340 AD (Jumada al-Ula in the year 741 AH) the armies of Andalusian Muslims led by Sultan Abi Al-Hajjaj Yusuf bin Abi Al-Walid Ismail and the Marinids coming from the enemy of Morocco led by Sultan Abi Al-Hassan Ali bin Othman Al-Marini on the one hand, and the armies of the Kingdom of Castile led by Alfonso XI and the Kingdom of Portugal led by Alfonso IV.

<sup>73</sup>See Ibn Al-Khatib, Al-Ihatah, Volume 3, Pg. 249, Margin No. 2.

<sup>74</sup>Ibn al-Ahmar, Abu al-Walid Ismail (807 AH / 1405), *Natheer al-Juman fi Nizam al-Zaman*, edited by: Muhammad Radwan al-Day, World of the Book, Beirut, 1986; Al-Nabahi, *History of Judges*, p. 164.

judge and orator until he died there in the month of Ramadan in 773 AH /1374 AD<sup>75</sup>, then returned Ibn Juzayto the judiciary, followed by Abu al-Hasan al-Jazami, followed by Abu al-Hasan al-Nabahi, and one of the Congregational judges who became famous after that was Abu Bakr Asim al-Gharnati, who remained for a long time in his position and died in (829 AH / 1426 AD)<sup>76</sup>. Abu Yahya bin Asim, who was called by the people of his time, Ibn al-Khatib II<sup>77</sup>, was one of the clerks of the Nasrid state and its ministers, he assumed the regular judiciary and then became a Congregational judge in (838 AH / 1434 AD), during the reign of Sultan Muhammad VII (820-858 AH / 1417-1454 AD), as well as writing in the Diwan of Construction, and after this career progression, we find him settling as Minister of the Sultan.<sup>78</sup>

The judges of the community in the Emirate of Granada were keen not to receive a specific salary, and they also kept their positions away from mediation to maintain integrity. Only those who assumed other tasks and demonstrated their true religious, moral, and scientific qualifications reached this position. Some judges assumed the position of the judiciary after he was in a lower religious position. Abu al-Hasan al-Nabahi was a clerk in the court of Muhammad V, and Abu Bakr bin Muhammad was one of the judges of the provinces before he received the position in Granada. In addition to his judicial position, some judges were given diplomatic duties. During the reign of Muhammad V, the judge of the city of Almeria, Muhammad bin Mufaddal, played a role in entering the city in obedience to the Emir of Granada, as well as Judge Abu al-Barakat, whom Muhammad V sent (756 AH / 1355 AD) as a messenger to the embassy of the court of Fez and Sharif Al-Husseini Al-Sabti Abu Al-Qasim Muhammad (661 AH / 1358 AD), was sent to the embassy to the Christian rulers, and he achieved resounding success.<sup>79</sup> One of the judges, Abu Abdullah bin Al-Azraq<sup>80</sup>, witnessed the

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<sup>75</sup>Al-Marrakchi, Abbas bin Ibrahim (1378 AH / 1958 AD), *AlaeilamBiman Hali Marakish Min Alaelam*, edited by: Abdel Wahab bin Mansour, 2nd Edition, Royal Press, 1993 AD; Ibn al-Ahmar, *NathirFaraed*, p. 157; Al- Nabahi, *History of Judges*, pg. 163-166.

<sup>76</sup>Farhat, *Granada in the shadows of Bani al-Ahmar*, p. 83.

<sup>77</sup>Al-Maqri, *AiziharAlriyad Fi 'AkhbarAlqadiEiad*, edited by: Mustafa Al-Sakka and Ibrahim Al-Abyari, Committee for Authoring, Translation and Publishing, Cairo, 1939 AD, Vol. For more: See Al-Maqri, *Nafh Al-Tayyib*, Volume 6, pg. 148.

<sup>78</sup>Ibid, vol. 3, p. 319; Farhat, *Granada in the shadows of Bani al-Ahmar*, p. 44.

<sup>79</sup>Al-Maqri: *Nafh Al-Tayyib*, Volume 1, p. 217.



events of the internal strife of the ruling family in Granada, which exhausted the forces of Muslims, as well as the external conspiracies that were the final blow to it.

After a long journey in seeking knowledge, Ibn al-Azraq returned to take over the judiciary west of Malaga, then the judiciary in Wadi Ash, he has moved to Malaga again, until he moved to the capital of Granada as a Congregational judge.

When the siege of the Christians on Granada intensified and the tyrant descended in its meadow, the Sultan went out with him to Wadi Ash. Ibn al-Azraq, as a Congregational judge decided to go to the Arab world to seek the help of the kings of Islam and their princes to save Granada and help Andalusia in its last ordeal<sup>81</sup>. Among the famous figures are Mufti Muhammad al-Ansari al-Saraqusti, who died in (861 AH / 1359 AD), and Mufti Ibrahim bin Muhammad al-Saqili, who was a famous linguist and poet<sup>82</sup>

#### **Fourth: The costumes of judges in the era of the state of Bani al-Ahmar**



**(The painting is taken from the Al-Hamra Palace in the King's Hall of Granada, and several people are shown in Arab dress)**

Given the social status that the judge enjoys, the judges took care to appear majestic and respectable. They used to wear talismans and put turbans on

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<sup>80</sup>Al-Tanbakti, Ahmed Baba (died 963 AH / 1555 AD), Neil Al-Ibtihaj Bitatriz Aldiybaj, edited by: Abdel Hamid Abdullah, Islamic Dawah Publications, Tripoli, 1989, p. 54.

<sup>81</sup>Al-Maqri, Nafh Al-Tayyib, Volume 3, p. 510.

<sup>82</sup>Fernández-Morera, Darío, The Myth of the Andalusian Paradise: Muslims under Islamic Rule in Medieval Spain (Wilmington, 2016), Chapter 3, 'The Daily Realities of Al-Andalus', pp. 83-118.

their heads, and this is what Al-Maqri says, so you hardly see a judge or jurist without the turban<sup>83</sup>. The judges kept the turbans as an official dress, Abu Jaafar bin Bartal (750 AH / 1349 AD) took care of his dress, and the Qantouria judge bought the best clothes when he went out to receive Abu Al-Hajjaj Yusuf I, dyed his beard with henna and put the turban on his head.<sup>84</sup>

The historian Shihab al-Din al-Maqri (d. 1041 AH) wrote in his book "Naffh al-Tayyib Min GhushnAl'andalusAlratib" an important text about the change of clothes of some of the people of Andalusia because some of them left the turbans, he says, and he is an eyewitness: ("As for the costumes of the people of Andalusia, it is mostly for them to leave the turbans, especially in the east of Andalusia, for the people of the west of which you can hardly see a judge or jurist without the turban."<sup>85</sup>, besides, they tolerated it in the east as well, and I saw Aziz bin Khattab, the greatest scholar in Murcia<sup>86</sup>, the Sultan at that time, and was assigned the kingdom, while he was bareheaded, and his gray hair had prevailed over the blackness of his hair.

Regarding the soldiers and the rest of the people, few of them you see with a turban in the east or the west. Ibn Hood, who reigned in Andalusia in our time, I saw him in all his conditions in the land of Andalusia without a turban, as well as Ibn al-Ahmar, who has most of Andalusia now in his hand, and their sultans and soldiers were dressed in the clothes of the Christians, their weapons were alike, their vaults of Ashklat like their vaults, as well as their flags and saddles.

It seems that the clothes of judges were not uniform, some of them wore green, and some wore white, and some wore the turban, and some did not wear it, and some wore the dress of princes and others wore the dress of ascetics. Although the nature of their clothes differed in form and content, they were distinguished from the rest of the common people.

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<sup>83</sup>Al-Muqri, Nafh Al-Tayyib, Vol. 1, p. 222.

<sup>84</sup>Raslan, Shakib: Sindhi halal in Andalusian news and heritage, Dar al-Kutub al-Ilmiyya, Beirut, 1941, vol. 1, p. 177.

<sup>85</sup>Al-Muqri, Nafh Al-Tayyib, p. 222.

<sup>86</sup>Arslan, previous reference, vol. 1, p. 177.

## Conclusion

From the above, we sum up several conclusions:

- The judiciary was developed based on the principle of separation of powers.
- The judge in Granada, under the state of Beni al-Ahmar, enjoyed independence and diversity.
- The position of Congregational judge or chief of judges was the head of the Federal Court today.
- From the foregoing, our opinion is that the judge refers in difficult matters to the jurists, which indicates the pursuit of justice and non-compliance with opinion or superiority over the jurists and striving to apply justice to the farthest limits.
- The research indicates that the judge has wide powers that he enjoyed during the Emirate of Banu al-Ahmar.
- The plurality of types of judiciary leads us to a tendency to specialize. Each judge has his specialization, which he is good at without others, which is to strive, as it was previously shown, to apply absolute justice.
- There is no doubt that this sophisticated judicial and legal system has moved later to Europe and has taken a lot from it.
- The culture of tolerance, acceptance of the other, or the adoption of the spatial link in belonging to the city was a factor of connection with the other.
- One of the results of stability and material well-being was the rise of the judicial aspect, represented by the emergence of a class of judges with a diverse culture in various branches of knowledge.

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