

IBN KHALDŪN BETWEEN LEGAL THEORY AND LEGAL PRACTICE

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INTRODUCTION

Beyond his prevailing reputation as an historian of imposing stature, ‘Abd al-Raḥmān Ibn Khaldūn (d. 808/1406) was recognized by his contemporaries for his mastery of several other scholarly domains. A close friend and rival, Lisān al-Dīn Ibn al-Khaṭīb (d. 776/1374), attributed to him books on logic and arithmetic, a commentary on a poem he had written on legal theory, and ‘several summaries of the books of Ibn Rushd’.¹ Ibn al-Khaṭīb also appreciated his book on Islamic mysticism, *Shifā’ al-sā’il li-tahdhīb al-masā’il* (Healing of the seeker), and his commentary on Fakhr al-Dīn al-Rāzī’s (d. 606/1210) *Muḥaṣṣal afkār al-mutaqaddimīn wa-l-muta’akkbirīn min al-‘ulamā’ wa-l-ḥukamā’ wa-l-mutakallimīn* (Gleanings from the ideas of the early and late scholars, philosophers, and theologians).² Ibn Khaldūn’s fascination with

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¹ Ibn al-Khaṭīb, *al-Iḥāṭa fī akhbār Gharnāṭa* (The comprehensive history of Granada) (ed. Yūsuf ‘Alī al-Ṭawīl; Beirut: Dār al-Kutub al-‘Ilmiyya, 4 vols., 2003), iii, 377–95, esp. at 386. There, he does not make clear whether he is referring to Ibn Rushd the grandfather (d. 520/1126) and his legal books, or to Ibn Rushd the grandson (Averroes, d. 595/1198) and his main philosophical books. The works of both had been widely read by Ibn Khaldūn’s time and there is no doubt that he was familiar with them. However, there is no proof that he meant Averroes.

² Ibn Khaldūn, *Lubāb al-Muḥaṣṣal fī uṣūl al-dīn* (Gist of the *Muḥaṣṣal* on the principles of the religion) (eds. ‘Abbās Muḥammad Ḥasan Sulaymān and Muḥammad Abū Rayān; Alexandria: Dār al-Ma‘rifa al-Jāmi‘iyya, 1996); and *Shifā’ al-sā’il wa-tahdhīb al-masā’il* (ed. Muḥammad al-Ḥāfiṣ; Damascus: Dār al-Fikr, 1996).

falsafa and its demonstrative method has already been established,³ and his views on Islam's mystical aspects have drawn increasing attention lately.⁴ Another domain that he mastered, perhaps the most important, is that of law. The law played a crucial role in his life and career, since he taught the Islamic legal sciences for over thirty years, wrote about them, and was appointed to judicial positions that only a prominent expert of high repute could have held.

This study is about Ibn Khaldūn the jurist and historian of Islamic law. It aims to analyse how he conceptualized the law as a scholar and historian, and how he practised it as an administrator of justice. Each of the five sections in this article covers one aspect of this relationship. The first provides an overview of his legal training and writings, and examines a legal treatise ascribed to him, *Muzīl al-malām 'an ḥukkām al-anām* (The Judges' shield from censure).⁵ The second section looks at his contemporaries' appraisal of his performance as a Mālikī chief judge in Egypt. The third takes on their debate about his legal reforms by questioning the connection between, on the one hand, his judicial practice and, on the other, his historical and theoretical discussion of the law and the judiciary. The fourth raises various questions related to his approach to legal history, such as his classification of the legal sciences and the extent to which his model is a critique of his Muslim predecessors and of Aristotle on history. The fifth and last section engages in a close reading of his account of *fiqh* and *uṣūl al-fiqh* in the *Muqaddima*.

³ See, e.g., Muhsin Mahdi, *Ibn Khaldūn's Philosophy of History: A Study in the Philosophic Foundation of the Science of Culture* (London: Routledge, 2016 [1957]); Erwin Rosenthal, 'Ibn Khaldūn's attitude to the *falāsifa*', *Al-Andalus* 20–2 (1955): 75–85; and Stephen Dale, 'Ibn Khaldun: the last Greek and the first annalistic historian', *International Journal of Middle East Studies*, 38–3 (2006): 431–51.

⁴ His *Shifā' al-sā'il* has recently been translated into English as *Ibn Khaldūn on Sufism: Remedy for the Questioner in Search of Answers = Shifā' al-Sā'il li-Tabdhīb al-Masā'il* (transl. Yumna Ozer; Cambridge: Islamic Texts Society, 2017). Alexander Knysh presents a detailed account of Ibn Khaldūn's position on Sufism in his recent book, *Sufism: A New History of Islamic Mysticism* (Princeton, NJ and Oxford: Princeton University Press, 2017), 154–75. See, also, James Winston Morris, 'An Arab Machiavelli? Rhetoric, philosophy and politics in Ibn Khaldūn's critique of Sufism', *Harvard Middle Eastern and Islamic Review*, 8 (2009): 242–91; and René Pérez's introduction in *Ibn Khaldūn, La Voie et la loi, ou, Le maître et le juriste: Shifā' al-sā'il li-tabdhīb al-masā'il* (transl. Pérez; Paris: Sindbad, 1991).

⁵ Ibn Khaldūn, *Ibn Khaldūn wa-risālatuhu li-l-quḍāt: Muzīl al-malām 'an ḥukkām al-anām* (ed. Fu'ād 'Abd al-Mun'im Aḥmad; Riyadh: Dār al-Waṭan, 1996; hereafter referred to as *Muzīl al-malām*).

The topic of Ibn Khaldūn's judicial practice was first taken up by Walter Fischel in his book, *Ibn Khaldūn in Egypt*, then about three and a half decades later by Kosei Morimoto in his article, 'What Ibn Khaldūn saw'.⁶ I join their conversation and expand it by focusing on the place of the law between Ibn Khaldūn's theorization and practice. I look especially into his fraught relationship with notaries (*'udūl* or *shuhūd*) and compare it to what he writes about their office and the institution of religious endowment (*waqf*) with which they were closely involved. In addition to the primary sources that Fischel and Morimoto used—especially Ibn Khaldūn's *Riḥla* or autobiography, and the biographical notes of Ibn Ḥajar al-'Asqalānī (d. 852/1449), and Shams al-Dīn al-Sakhāwī (d. 902/1497)⁷—I draw on the *Muqaddima* and *Durar al-'uqūd al-farīda* (Pearls of precious necklaces) by Taqī al-Dīn al-Maqrīzī (d. 845/1442), a famous Mamlūk historian and one of Ibn Khaldūn's most admiring students.⁸

The argument of this study is that Ibn Khaldūn's discussion of the Islamic legal sciences and his philosophy of legal history are motivated by at least two aspirations. The first is to develop a critical approach to the history of Islamic law that privileges investigative reflection over mere transmission of reports and urges interpretation as an essential hermeneutical tool for understanding reports. The second is to re-read that history and present it through his own theory of society and culture (*'ilm al-'umrān*). Ibn Khaldūn's account of the origin and evolution of Islamic law and its schools, as will be observed, is laden with references to society and change that are deeply entwined with his concept of *'umrān*. He sought to establish the social and historical value of Islamic law by posing a different kind of question, such as: why did the Hanafī school and the rational legal method prevail in Iraq and the Levant, whereas the Mālikī school and the traditions-based method

⁶ Walter J. Fischel, *Ibn Khaldūn in Egypt: His Public Functions and his Historical Research (1382–1406): A Study in Islamic Historiography* (Berkeley and Los Angeles, CA: University of California Press, 1967), 30–41; Kosei Morimoto, 'What Ibn Khaldūn saw: the judiciary of Mamlūk Egypt', *Mamluk Studies Review*, 6 (2002): 109–31.

⁷ Ibn Khaldūn, *Riḥlat Ibn Khaldūn* (ed. Muḥammad b. Tāwīt al-Ṭanjī; Beirut: Dār al-Kutub al-'Ilmiyya, 2004); Ibn Ḥajar al-'Asqalānī, *Raf' al-iṣr 'an quḍāt Miṣr* (Taking the burden off the judges of Egypt) (ed. 'Alī Muḥammad 'Umar; Cairo: Maktabat al-Khānjī, 1998); and Shams al-Dīn Muḥammad b. 'Abd al-Raḥmān al-Sakhāwī, *al-Daw' al-lāmi' li-ahl al-qarn al-tāsi'* (The shining light of the scholars of the ninth century) (Beirut: Dār al-Jīl, 12 vols., 1992).

⁸ Taqī al-Dīn b. 'Alī al-Maqrīzī, *Durar al-'uqūd al-farīda fī tarājim al-a'yān al-mufīda* (ed. Maḥmūd al-Jalīlī; Beirut: Dār al-Gharb al-Islāmī, 4 vols., 2002): ii. 383–410.

did so in Arabia and the Maghrib? Why were the great majority of scholars during the formative and classical history of Islam ethnically non-Arab? A history of Islamic law for Ibn Khaldūn had to go beyond the epistemological concerns that preoccupy most of his predecessors' historical accounts.

LEGAL TRAINING, WRITINGS, AND UNKNOWN JURIDICAL TREATISE

Coming from a well-situated family, Ibn Khaldūn received an excellent education. He studied the traditional sciences, including the legal sciences, with some of the most prominent scholars of his time, such as Muḥammad Ibn 'Abd al-Salām (d. 749/1348), chief judge of Tunis (*qāḍī al-jamā'a*).⁹ However, Ibn Khaldūn's formal, institutional learning was disrupted at an early age by the Black Death that struck the city in 749/1348. It took the lives of his parents and many of his friends and teachers, including Ibn 'Abd al-Salām. The last, and possibly the only, teacher he had after the plague was Muḥammad b. Ibrāhīm al-Ābilī (d. 757/1356) with whom he studied the rational sciences.¹⁰ At about nineteen years of age, Ibn Khaldūn accepted his first position as the seal-bearer and writer of the Sultan's signature (*ṣāhib* or *kātib al-'alāma*). In this role, he was in charge of printing the Sultan's signature on decrees and correspondences, overseeing the process of drafting these letters, and undertaking occasional diplomatic tasks.¹¹ Ibn Khaldūn's life soon became busier as he moved between cities and served different rulers. Despite his hectic political life, as he states on several occasions in his autobiography, his thirst for learning was never quenched, and he

⁹ Ibn Khaldūn, *Riḥla*, 39 and 64–5. The post of *qāḍī al-jamā'a* (chief judge of the capital city)—a post that ranks below *qāḍī al-quḍāt* (chief judge of the state) and higher than *qāḍī* (provincial judge)—has been associated with the judicial culture of the Andalus and Maghrib. See David S. Powers, *Law, Society and Culture in the Maghrib, 1300–1500* (Cambridge: Cambridge University Press, 2009), 18–20.

¹⁰ Ibn Khaldūn spoke highly of al-Ābilī in his autobiography, often calling him an authority in the rational sciences: *Riḥla*, 40–1 and 49–53. For Ibn Khaldūn the 'rational sciences' (*al-'ulūm al-'aqliyya*) were the philosophical sciences (logic, metaphysics, astronomy, psychology or philosophy of the soul, etc.), in contradistinction to 'the traditional sciences' (*al-'ulūm al-shar'iyya*), by which he meant subject matter specific to the Muslim community (Qur'ān, *ḥadīth*, Arabic language, poetry, etc.).

¹¹ Ibn Khaldūn, *Riḥla*, 65; Robert Irwin, *Ibn Khaldun: An Intellectual Biography* (Princeton, NJ: Princeton University Press, 2018), 28.

‘continued acquiring knowledge and teaching’.¹² Over the span of thirty years, he taught the religious sciences, including *ḥadīth*, *fiqh* and *uṣūl*, in present-day Morocco, Algeria and Tunisia, before moving to Egypt where he taught at the Qamḥiyya school in the city of Fuṣṭāt near Cairo and at the University of al-Azhar as well as other schools.¹³

In addition to his being a teacher of the legal sciences, Ibn Khaldūn’s distinction in the field is attested in two other ways. The first is his rich and complex judicial experience in the different offices he held in the Maghrib and Egypt. The second is his legal writings to which, however, we have little access, since none of the treatises that Ibn al-Khaṭīb or any of his biographers ascribe to him appear to have survived. Our main source for his judicial experience is his autobiography, while his reflections on Islamic law and its development are articulated in two sections in the *Muqaddima*.¹⁴ The first surveys *fiqh* as the practical side of Islamic law. The second covers *uṣūl*, dialectic (*jadāl*) and legal controversy (*khilāf*) as the main topics on the theoretical side. Both sections will be analysed later.

Besides these works, there is a less familiar treatise that has been attributed to Ibn Khaldūn, namely *Muzīl al-malām ‘an ḥukkām al-anām*. Its style is more that of an advisory memorandum since it addresses judges directly and offers a range of admonitions about effective judicial practices. It is divided into three main chapters. The first gives pragmatic advice about the best ways of adjudicating between litigants. The second highlights the importance of welfare (*mahāmm al-ri’āya*) with a special focus on the needs of orphans, widows, prisoners, and students, and endowed properties and places of worship. The third warns against contemptible manners and behaviours that judges risk acquiring during office. The copyist of the manuscript of *Muzīl al-malām*, Ṣāliḥ b. Ja’far, declares that he copied it in late September 1047/1637 from another copy written by ‘Walī al-Dīn Ibn Khaldūn’.¹⁵ Walī al-Dīn is Ibn Khaldūn’s first name, although his students and most of his colleagues often refer to him as Abū Zayd. That is how his student, Maqrīzī, always mentions him in his books.

Other than this piece of information from the copyist, the title of *Muzīl al-malām* is mentioned neither by Ibn Khaldūn nor any of his biographers. However, their silence about it should not be considered evidence that Ibn Khaldūn did not write it. For one thing, both its size

¹² Ibn Khaldūn, *Riḥla*, 221.

¹³ According to his *Riḥla* and in chronological order, Ibn Khaldūn taught in Fes (185), Tlemcen (187), Tunis (190), and Egypt (201, 221 and 232).

¹⁴ Ibn Khaldūn, *Muqaddima*, iii. 3–22.

¹⁵ Ibn Khaldūn, *Muzīl al-malām*, 156.

and content suggest that it was composed more as an official document than a scholarly work. Since Ibn Khaldūn served as Mālikī chief judge for almost one year at one time and for shorter periods five more times, he must have exchanged several letters with the judges and court officials he oversaw. It is possible that *Muzīl al-malām* was one of those communications.

What seems more puzzling about this treatise, however, are the discrepancies that the editor, Fuʿād Aḥmad, has noticed between some of its admonitions and certain principles of Mālikī law, especially juristic preference (*istiḥsān*) and mediated settlement (*ṣulḥ*).¹⁶ To give a concrete example, the author of *Muzīl al-malām* discourages *istiḥsān* and cites as textual proof al-Shāfiʿī's maxim: 'whoever uses juristic preference invents the law' (*man istahsana fa-qad sharra'a*).¹⁷ By contrast, Mālikī jurists, like their Ḥanafī and Ḥanbalī counterparts, consider *istiḥsān* an authoritative source of the law.¹⁸ Another example is *Muzīl al-malām*'s advocacy of settlement *after* the judge notifies the litigants of his final decision. In Mālikī law, however, the judge suggests settlement *only* if he cannot reach a final decision.¹⁹ Despite its conflict with these Mālikī principles, Aḥmad has confirmed Ibn Khaldūn's authorship of *Muzīl al-malām*, mainly on the unsubstantiated assumption that it must have been intended for all judges regardless of their *madhhab* affiliation.

In the absence of strong external proof, another way to verify Ibn Khaldūn's authorship is by comparing it to his other writings. On doing so, we do find striking resemblances with the *Muqaddima* and *Riḥla*, especially with respect to the emphasis on virtues and practices such as self-reflection after adjudication, impartiality, justice, protecting *waqf* and scrutinizing notaries (*mu'addila* or *aṣḥāb al-shahāda*)—the latter two represent the core of Ibn Khaldūn's judicial reform in Egypt as will be seen. On the practice of reflection after adjudication, both the *Muqaddima* and *Muzīl al-malām* stress the supreme importance of pondering and, when necessary, correcting the *final* decision. Both quote 'Umar b. al-Khaṭṭāb's advice to his governor in Damascus, Abū al-Dardā' (d. 32/652), that he must not hesitate to correct a judgement 'for truth is primordial and repealing [a wrong judgement] is worthier

¹⁶ Aḥmad's comments in, Ibn Khaldūn, *Muzīl al-malām*, 21–6.

¹⁷ Ibid, 114.

¹⁸ For the different schools' views and uses of *istiḥsān*, see Muhammad Hashim Kamali, 'Istiḥsān and the renewal of Islamic law', *Islamic Studies*, 43–4 (2004): 561–81.

¹⁹ Ibn Khaldūn, *Muzīl al-malām*, 114. See the editor's extended comments on this principle in the footnotes.

than persisting in falsehood'.²⁰ Also, in both books Ibn Khaldūn urges judges to administer *waqfs* in person and to the best of their ability by freeing them from and guarding them against transgressors and corrupt persons.²¹ *Muzīl al-malām*'s admonition, that it is ultimately the judge's duty to inspect all the notaries' circumstances and scrutinize their professional history, is found almost word for word in Ibn Khaldūn's *Muqaddima* and autobiography.²² Another example is *Muzīl al-malām*'s warning to judges to be 'wary of a friend who may have been employed by rulers to attain crooked goals'.²³ This statement seems to echo Jamāl al-Bishbīshī's comment that every time Ibn Khaldūn holds office, he becomes hot-tempered and difficult to be around. But, when he is dismissed, he shows amiable character and becomes pleasant company.²⁴ This change in Ibn Khaldūn's manner when in office may have been deliberate, a barrier to prevent the influence on his judgements of colleagues and friends, something that he stressed in his autobiography.

IBN KHALDŪN'S JUDICIAL PERFORMANCE APPRAISED BY HIS PEERS

Before Egypt, Ibn Khaldūn's most important experience of justice administration was the *mazālim* office to which he was appointed by the Merinid Sultan of the Maghrib, Abū Sālim (d. 762/1361).²⁵ As *qāḍī al-mazālim*, Ibn Khaldūn heard and reviewed appeals of lower judges'

²⁰ '*al-ḥaqq qadīm wa-murāja'at al-ḥaqq khayr min al-tamādī fī l-bāṭil*': Ibn Khaldūn, *Muzīl al-malām*, 125, and *Muqaddima*, i. 373.

²¹ Ibn Khaldūn, *Muzīl al-malām*, 130.

²² '*yatafaqqad aḥwālahum wa-sīrat kullin minhum*': Ibn Khaldūn, *Muzīl al-Malām*, 136; '*taṣaffuḥ aḥwālihim wa-l-kashf 'an siyaribim*', in *Muqaddima*, i. 379, and '*taḥarrī al-mu'addila*', *Riḥla*, 244 and 289.

²³ Ibn Khaldūn, *Muzīl al-malām*, 142.

²⁴ Ibn Ḥajar, *Raf'*, 234. This is Jamāl al-Dīn al-Bishbīshī (d. 820/1418). He knew Ibn Khaldūn and attended his lectures on history and perhaps other subjects: see al-Sakhāwī, *al-Ḍaw' al-lāmi'*, v. 7.

²⁵ The *mazālim* office does not have an exact equivalent in modern judiciary, but it may be compared to a high appellate court which administers appeals and oversees trial courts' cases to uphold the law. For more on the judicial institution of *mazālim*, see Mathieu Tillier, 'The *mazālim* in historiography' in Anver M. Emon and Rumea Ahmed (eds.), *The Oxford Handbook of Islamic Law* (Oxford: Oxford University Press, 2018): 357–83, and Muhammad H. Kamali, 'Appellate review and judicial independence in Islamic law', *Islamic Studies*, 29/3 (1990): 215–49.

decisions, a role which, in his self-felicitating words, he ‘satisfied fully’.²⁶ According to Fischel, Ibn Khaldūn held this position in 760/1359, that is, at the beginning of Abū Sālim’s reign.²⁷ More correctly, he must have held it in 762/1361, the year in which Abū Sālim was overthrown. For the expression Ibn Khaldūn uses in his autobiography for this point in time is ‘towards the end of the state’ (*ākhir al-dawla*, i.e., the end of Abū Sālim’s reign).²⁸ Ibn Khaldūn continued to hold the *maẓālim* office under the vizier ‘Umar b. ‘Abd Allāh who led the rebellion against Abū Sālim, but not for longer than a few weeks. Increasing turmoil in the capital city of Fes forced Ibn Khaldūn to flee in fear for his life and the safety of his family.

Ibn Khaldūn’s next major judicial experience was the office of chief judge of the Mālikī school in Egypt, the position which he lost and regained at least six times.²⁹ He was assigned to it for the first time in 786/1384 by Sayf al-Dīn Barqūq (d. 801/1399). In less than a year, he resigned under pressure. About a decade and a half later, most of which he spent teaching and revising his historical works, he was reappointed as *qāḍī quḍāt al-Mālikiyya*. Then, about two months later, after Sultan Barqūq’s death, he was dismissed by Barqūq’s son, Faraj. For the next four years or so, Ibn Khaldūn lost and retrieved his position four more times. He held it for the third time between 803–804 / 1401–1402, the fourth between 804–805 / 1402–1403, the fifth in 807/1405, and the sixth and final time in the beginning of March 808/1406, for less than a week when death took him on March 17.³⁰

The appraisal of Ibn Khaldūn’s performance as judge by his peers varied with the kind of relationship they had with him and how they received his assignment as chief judge of the Mālikī school. Some of them venerated his legal knowledge and practice highly, such as Maqrīzī. Others denigrated him and discounted his competence almost entirely, such as Ibn Ḥajar and his student, Sakhāwī. Many of his rivals portrayed him as an unqualified and opportunist North African (i.e., non-native Egyptian) who enjoyed royal favours undeservingly. Both Ibn Ḥajar and Sakhāwī averred that the news of Ibn Khaldūn’s appointment shocked North African scholars and led them to look down on the Egyptians for their lack of insight and ability to appoint someone more

²⁶ Ibn Khaldūn, *Riḥla*, 80.

²⁷ Fischel, *Ibn Khaldūn*, 16.

²⁸ Ibn Khaldūn, *Riḥla*, 80.

²⁹ *Ibid.*, 204–5.

³⁰ For the key political events that surrounded Ibn Khaldūn’s dismissal and re-assignment to the office of *qāḍī quḍāt al-Mālikiyya*, see Fischel, *Ibn Khaldun*, 30–4, 39–41 and 66–8.

competent.³¹ It should be noted that this negative appraisal is attributed to the grand Mufti of Tunis, Muḥammad b. ‘Arafa (d. 803/1400), who knew Ibn Khaldūn and, most likely, attended with him Ibn ‘Abd al-Salām’s lectures before the Plague. Fischel observes that Ibn ‘Arafa was hostile to Ibn Khaldūn, which throws doubt on the objectivity of his appraisal.³²

Many of Ibn Khaldūn’s rivals accused him in particular of lack of manners and intentional neglect of the customs of the Mamlūk judiciary. For example, Ibn Ḥajar has related that Ibn Khaldūn did not stand up for other judges when they came in to greet him and did not comply with the Mamlūk court dress code.³³ Mamlūk judges, according to Shihāb al-Dīn al-‘Umarī (d. 749/1349), wore special rounded turbans and a gown known as ‘*dilq*’ which goes under the outer cloak and has slits at the shoulders but not in the front. Shāfi‘ī chief judges, who enjoyed the highest status, further distinguished themselves with a shawl-like garment known as ‘*tarḥa*’ which goes on top of the turban, then around the neck and back over the shoulders.³⁴

In addition to assailing his fitness for office, Ibn Khaldūn’s opponents circulated negative remarks about his lineage, honour, political affiliations and religious belief, and criticized anyone who held a favourable opinion of him. For example, Maqrīzī’s positive appraisal was dismissed by Sakhāwī and others as nothing more than ‘mere exaggerated praise’.³⁵ There is hardly anything unusual in Ibn Khaldūn being the target of such attacks. After all, his closeness to the ruling elites and involvement with the inner workings of royal politics made him several enemies among fellow judges and administrators who saw him as a serious threat that had to be countered.³⁶

³¹ Ibn Ḥajar, *Raf*, 235–6, and Sakhāwī, *Ḍaw*, iv. 146.

³² Fischel, *Ibn Khaldun*, 34.

³³ Ibn Ḥajar attributed these reports to Bishbīshī. See Ibn Ḥajar, *Raf*, 235; and Sakhāwī, *Ḍaw*, iv. 146, 148.

³⁴ Shihāb al-Dīn Ibn Faḍl Allāh al-‘Umarī, *Masālik al-absār fī mamālik al-amṣār* (ed. Kāmil Salmān al-Jubūrī; Beirut: Dār al-Kutub al-‘Ilmiyya, 27 vols., 2010), iii. 303–4.

³⁵ Sakhāwī’s expression, ‘may God pardon both of them [Maqrīzī and Ibn Khaldūn]’ (‘*afā Allāh ‘an humā*,), is a negative judgement. Sakhāwī, *Ḍaw*, iv. 147. By contrast, Maqrīzī frequently uses the phrase, ‘*kam nafa‘anī Allāh bihī*’, which expresses gratitude for how much he had benefited from Ibn Khaldūn.

³⁶ For a study of the Mamlūk judges’ competition for power and political advantage, see Riḍwān al-Sayyid, ‘al-Fiqh wa-l-fuqahā’ wa-l-dawla: širā‘ al-fuqahā’ ‘alā al-sulṭa wa-l-sulṭān fī al-‘aṣar al-mamlūki’, *Majallat al-Ijtihād*, 3 (Summer 1989): 135–76.

By contrast, admirers of Ibn Khaldūn expressed a high opinion of his legal knowledge and practice. Many attested to his skills in justice administration including Shams al-Dīn Ibn ‘Ammār (d. 844/1441) who studied with him law and history, and ‘al-Ḥāfiẓ al-Aqfahsī’ (d. 820/1418) who called him a ‘just judge who ruled with ample righteousness’ (*ḥurma wāfira*).³⁷ The well-known Mamlūk historian, Jamāl al-Dīn Ibn Taghrībirdī (d. 874/1470), affirmed that Ibn Khaldūn handled the legal office with great honour and high regard and praised especially his incorruptibility and his fine manners.³⁸ Ibn Taghrībirdī may be known more as a historian, but he was not a stranger to justice administration since he was brought up in a family of remarkable state officials and studied the law with leading scholars, including his brother-in-law, the illustrious Mamlūk chief judge, Jalāl al-Dīn al-Bulqīnī (d. 824/1421).³⁹ In turn, Maqrīzī, and contrary to some scholars’ assumption, wrote an extensive biographical entry on Ibn Khaldūn’s life and career and made detailed remarks on his role as judge in Egypt.⁴⁰ On his teacher’s role as *qāḍī*, he maintained that he ‘fulfilled it in the utmost favourable way’, and that he was impartial, independent in his legal decisions, and sternly intolerant toward corruption.⁴¹

AN AMBITIOUS PROJECT OF LEGAL REFORM: WHEN THEORY INFORMS PRACTICE

The world of the judiciary in fourteenth century Egypt mirrored the political state of the Muslim West at large, which was a state of chronic chaos and accelerated dissolution. When Ibn Khaldūn accepted his new assignment as chief judge of the Mālīkī school on Monday, 19 Jumādā II 786 /8 August 1384, he found a bankrupt judicial system that thrived on

³⁷ Sakhāwī, *Daw’*, iv. 148. This is Ṣalāḥ al-Dīn Abū al-Ṣafā to whom Sakhāwī refers by the nickname, al-Ḥāfiẓ, on several occasions in *al-Jawāhir wa-l-durar fi tarjamat shaykh al-Islam Ibn Ḥajar* (Pearls and jewels from the biography of the Sheikh of Islam, Ibn Ḥajar) (ed. Ibrāhīm Bājis ‘Abd al-Majīd; Beirut: Dār Ibn Ḥazm, 1999), i. 147, 387, and ii. 708.

³⁸ Fischel, *Ibn Khaldun*, 34.

³⁹ ‘Im al-Dīn Ṣāliḥ al-Bulqīnī, *Tarjamat Shaykh al-Islām Qāḍī al-Quḍāt Jalāl al-Dīn al-Balqīnī* (ed. Salīm Muḥammad ‘Āmir; Amman: Arwiqa li-l-Dirāsa wa-l-Nashr, 2015).

⁴⁰ Morimoto (‘What Ibn Khaldūn saw’, 127) has claimed that Maqrīzī ‘does not relate anything of Ibn Khaldūn’s term as chief judge or of the reactions of the Egyptians toward him at that time’. This is not true, however. Morimoto has drawn on Maqrīzī’s *Khiṭaṭ* and *Sulūk* but overlooked *Durar al-‘uqūd*, where Maqrīzī discusses Ibn Khaldūn’s judicial practice and his contemporaries’ reactions.

⁴¹ Maqrīzī, *Durar*, ii. 395.

bribes and favours. He took great pains to reform it, as his autobiography and other biographies record. However, being an overambitious new hire, he not only underestimated the extent of the spread of corruption in the Mamlūk legal system, but also overestimated his own ability to amend it. Each time he held office, he was faced with ferocious resistance that led to his first dismissal or forced resignation, on 7 Jumādā I 787/16 June 1385. (The discussion that follows, I should restate, is not intended to provide a detailed account of Ibn Khaldūn's legal reforms, but to probe the extent to which his historical and theoretical discussion of the law shaped his legal reforms and practice.)

One of the most detailed accounts of Ibn Khaldūn's efforts to reform the judiciary and their outcomes is given by Maqrīzī:

[Ibn Khaldūn] ascertained carefully circumstantial evidences, investigated the honourable record of notaries, and punished some of them for a forgery that had surfaced. He exerted severe and exemplary punishment by exposing them in public and barring several of them from holding the notary office. [As a result,] prejudice against him increased and the hearts of many [notaries] became filled with resentment and exasperation. So, they went after his honour and said disgraceful things about him, and fabricated lies and falsifications and disseminated them among the people. They plotted against him and complained to the Sultan about his lack of courtesy and knowledge of the people's vocabulary and Egyptian customs, ruthless actions and oppression, stubborn personal decisions, defiance, and lack of affableness. The fiercest [of his accusers] were his fellow judges and their allies. They all came together and waged war and conspired against him. They supported everyone who opposed him and nurtured defaming and ill-speaking of him in the whole community. Tongues were let loose and rage arose. The notaries who were suspended by him and were victim to his decisions rebelled. They began enticing state officials and cried out about their oppression until part of this [story] reached the Sultan who dismissed him on Saturday, 7 Jumādā I, 787.⁴²

Most of the remarks just cited are about Ibn Khaldūn's fraught relationship with the notaries (*'udūl* or *shuhūd*).⁴³ This relationship can only

⁴² Maqrīzī, *Durar*, ii. 395–6. (Here, and hereafter, all translations from Arabic are mine, unless otherwise stated.)

⁴³ The term 'notary' is used here for convenience; it more properly translates *'muwaththiq'*, the secular judicial office established by Europeans in the Muslim societies they colonized. *Shahāda* and *'adāla*, which Ibn Khaldūn uses, refer to a function that was both legal and religious and fulfilled *sharī'a* requirements. For example, the office of *'udūl* was forbidden to Muslim women, since their testimony did not enjoy equal legal force with that of men. However, this has changed recently as women in Morocco are now able to compete for *'adl* jobs. See 'Abd al-Latīf al-

be understood from within the context of his campaign to reform the institution of religious endowment (*waqf*). For the violation of *waqf* during his time was epidemic and the notaries had everything to do with that. Many of them, along with scribes, judges, *muftis* and even chief judges, used to collude with state officials in order to help them gain possession of desirable endowed properties.⁴⁴ Their ability to subvert justice depended on finding and exploiting loopholes in the law to bypass prohibitions imposed on certain *waqf* transactions. For example, Mālikī law proscribes exchanging a *waqf* for a non-*waqf* property or selling a *waqf* construction even if the latter has fallen into ruin. To get around this prohibition, a powerful member of the Mamlūk society would hire a corrupt notary to testify that the property in question is no longer of public benefit, and then employ a Ḥanbalī judge to finalize the sale or exchange transaction, since such transactions are allowed by Ḥanbalī law. Another example is reclaiming a *waqf* property, which is forbidden by the Mālikīs. To bypass this interdiction, a crooked notary would testify that the property was initially sold, not endowed. Thereafter, it becomes permissible to retrieve it or buy it. The violation of *waqf* during the Mamlūk period, as Morimoto has put it, was systematic and ‘nothing out of the ordinary’, and the law had reached a stage where it ‘was observed in name only’.⁴⁵

The office of *‘adāla* or *shahāda* was central to Mālikī juridical practice. Ibn Khaldūn’s focus on it seems to reflect the Mālikī juridical culture in which he was trained, but it can also be explained in two other ways. On the one hand, this office was one of the most corrupt judicial sectors at that time, therefore, it called for immediate corrective attention. In fact, the Mamlūk judicial system continued in decline after Ibn Khaldūn until it reached unexampled levels of dissolution about which Ibn Taghrībirdī said—with reference to the period between 872 and 874—that he ‘had never experienced in all [his] life the same gloomy conditions [of injustice]’.⁴⁶ On the other, the office of *‘adāla* is rooted in Ibn Khaldūn’s conception of justice (*‘adl*) and occupies a significant place in his theory of culture and society (the theory of *‘umrān* will be explained shortly). Justice for Ibn Khaldūn is an indicator of the

Shantūf, ‘Ta’ nīth mihnat al-‘udūl bi-l-Maghrib’, *Al-Mufakkira al-Qānūniyya* (26 January 2018), <http://www.legal-agenda.com/article.php?id=4197>. (Last accessed 13 July 2020.)

⁴⁴ Morimoto, ‘What Ibn Khaldūn saw’, 115–19.

⁴⁵ *Ibid.*, 118–19.

⁴⁶ Quoted in Toru Miura, *Dynamism in the Urban Society of Damascus: The Sālihiyya Quarter from the Twelfth to the Twentieth Centuries* (Leiden: Brill, 2016), 111. The fourth chapter (*Dynamism*, 111–35) describes the systematic injustice in late Mamlūk administration, as seen in taxation, confiscation of property and bribery.

advancement of a society, so its decay and the spread of injustice necessarily presages the decay of that society. This seems to be the conceptual background to his efforts of legal reform in Egypt and how he views the historical function of the office of *'adāla* and *qaḍā'* more broadly.

In his *Muqaddima*, for example, Ibn Khaldūn writes about *'adāla* and *qaḍā'* not only as judicial functions among other of the worldly functions of the state, but also as religious duties closely connected to the divine realm. Hence his emphasis on piety as an essential requirement of potential official witnesses and justice administrators. He considered probity and honourable record to be the highest qualities any notary might possess, even higher than legal knowledge and experience.⁴⁷ He required the administrators to scrutinize their appointees' piety, particularly deputy judges, notaries and legal trustees (*al-shuhūd wa-l-umanā' wa-l-kuttāb*), to ensure that they were trustworthy, an obligation that he himself, in his capacity as Mālikī chief judge in Egypt, strove to fulfil as perfectly as he could.⁴⁸

Notaries may appear to be among the less important offices of the judiciary but Ibn Khaldūn considered them essential to the stability and welfare of society since, in theory at least, they had a key role in preventing fraud, and their testimony was essential for judges to adjudicate equitably and preserve people's rights. In a sense, they were the front line of judges' battle against injustice and the rock upon which they relied to fulfil their role as God's deputies entrusted to uphold God's Word, understood as the Shari'a. For Ibn Khaldūn the role of justice administrators as God's deputies was to establish and uphold justice. In that sense he included jurists and legal scholars among those described in a Prophetic *ḥadīth* as 'inheritors of the prophets' (*al-ʿulamā' warathat al-anbiyā'*).⁴⁹ Although he also recognizes that, after the second generation of Muslims, hardly any jurist deserved to be so identified. They retained only half of the requisites for that status, namely knowledge and experience of the law. They lacked the other half, piety and austerity. God's law must be *lived* by those administering it, not simply known to them and practised on others. A virtuous and pious lay Muslim would be worthier of the title 'inheritor of the prophets' than a knowledgeable but impious jurist.⁵⁰

Ibn Khaldūn does not theorize justice in isolation from his general theory of culture and society but considers it as a major factor in the well-being or decline of societies. Contrary to his alleged pessimistic

⁴⁷ Ibn Khaldūn, *Muqaddima*, i. 378–9.

⁴⁸ *Ibid*, 374.

⁴⁹ *Ibid*, 377.

⁵⁰ *Ibid*, 378.

perspective on history,⁵¹ he seems quite optimistic about justice, especially under his political account of royal authority or sovereignty (*mulk*) and the two main qualities that sustain it, the good (*khayr*) and group solidarity (*‘aşabiyya*, group consciousness that serves social cohesion and unity).⁵² The logical argument he develops in this vein is as follows. Desire for sovereignty is inherent in the natural human disposition to social life. Humans incline to good more than evil since good comes to them by way of their rational faculties (which are special to them as humans), whereas evil comes to them by way of their animal appetites (which they share with other animals). Therefore, good is more appropriate to the exercise of sovereign power, and complements it and group solidarity. Without the attributes of *khayr*—tolerance, equity, forgiveness, generosity, humility toward the poor and other qualities that fit under the broad category of justice—sovereignty remains incomplete and, if injustice and evil dominate, remains rooted in humans’ animal appetites, not in their rational faculties.

From this, he goes on to argue that sovereign power is a way of representing or following God by upholding His laws (*ahkām*), which all have to do with the good and preserving peoples’ interests. Therefore, only individuals who possess innate attributes of *khayr* and enjoy potential *‘aşabiyya*—i.e., belong to a group (not necessarily by tribal or blood ties) that supports them—are both capable and worthy of carrying out God’s word. In Ibn Khaldūn’s view, both history and the revelation attest to this perspective. On the one hand, all the victorious dynasties he wrote about achieved social cohesion and unity due to potential *‘aşabiyya* in the ruling class, and at their peak competed for moral excellence and virtue. The loss of virtues in them led by necessity to their loss of sovereign power, the end of their dynasty, and the rise of another. The loss of justice in society plays a key role in this principle of the cyclicity of dynasties and Ibn Khaldūn substantiates it in his *Tārīkh* by many examples of ancient societies and civilizations—he makes reference to justice and goodness in many of these examples.⁵³ On the other

⁵¹ Certain studies of Ibn Khaldūn have considered his theory of the cyclicity of dynasties fatalist and pessimistic, most recent among them, Robert Irwin, *Ibn Khaldun*, e.g., 49. Other studies have argued the contrary, among them, Fuad Baali, *Society, State, and Urbanism: Ibn Khaldun’s Sociological Thought* (Albany, NY: State University of New York Press, 1988), esp., 73–5, where he answers the question ‘is Ibn Khaldun a pessimist thinker?’

⁵² Ibn Khaldūn, *Muqaddima*, i. 233–6.

⁵³ Ibn Khaldūn, *Tārīkh Ibn Khaldūn, al-musammā dūwān al-mubtada’ wa-l-khabar fī tārikh al-‘Arab wa-l-Barbar wa-man ‘āṣarabum min dhawī al-sha’n al-akbar* (ed. Khalīl Shaḥāda; Beirut: Dār al-Fikr, 8 vols., 1988. Note: vol. i has the title

hand, in his appeal to the revelation for support of this observation, he refers particularly to Qur'ān 17: 16: 'And when We will the destruction of a village, We command its people who live in luxury and commit abomination therein, and so the Word has effect for it and We destroy it utterly'.⁵⁴ Ibn Khaldūn adds that the destruction of a settlement is commanded by God when its elite indulge in evil and vice and their virtues are completely lost.

In sum, irrespective of his success or failure as a reformer of judicial administration, it is evident that Ibn Khaldūn did not come unqualified to the office of *qādī quḍāt al-Mālikīyya*. His previous experiences, especially the *maẓālim* office in Fes, had equipped him with practical knowledge of the workings of justice administration. Also, his discussion in the *Muqaddima* about *qaḍā'*, its different systems and institutions, their historical development and social roles as well as other important legal subjects, provided him with a strong theoretical background—this is seen in his emphasis on *waqf* and the notary office both in theory and practice. It is to this theoretical background that I now turn, to explore some features of his approach to legal history and historical writing more broadly, its place within his classification of knowledge, and the distinguishing characteristics of the story he told about the origins and development of law in Islamic culture and society.

IBN KHALDŪN'S PHILOSOPHY OF LEGAL HISTORY: FROM TRANSMISSION TO INTERPRETATION

The *Muqaddima* builds a narrative that reflects a philosophy of history that is both ambitious and unique for its pre-modern scholarly milieu. This philosophy urges transforming the craft of historical writing from a traditional exercise in the mere transmission and arrangement of reports (*naql*) into a rational activity of reflective interpretation (*ta'wīl*). Ibn Khaldūn did not fashion this philosophy in a vacuum, but he applied it to seal a vacuum in the historical tradition in which he was writing. Concerned with the nature and place of history *vis-à-vis* the other sciences, he sought to mend a gap in the Muslim-Arabic tradition of historiography and, perhaps also, within Aristotle's classification of the sciences. His philosophy of history can be read as a response to his predecessors' lack of interest in the critical analysis of historical reports.

Muqaddimat Ibn Khaldūn). Among many examples, see ii. 207, 251, iii. 458, 572, iv. 138, 153, v. 147, 401, vi. 224, 325.

⁵⁴ Ibn Khaldūn, *Muqaddima*, i. 235.

It can also be read as an attempt to show that history deserves a place among the philosophical and rational sciences. So, what exactly is this philosophy of historical writing? What is *philosophical* about it? What distinguishes it from his predecessors'? How is it carried out in his own account of Islamic law?

Ibn Khaldūn's approach to historical writing is summed up in this passage in the preface of the *Muqaddima*:

History is one of the arts that are widely circulated among nations and generations. Caravans and single explorers journey to it. Common and simple-minded people long to know it. Kings and tribal chiefs compete for it. Experts and non-experts have equal appreciation of it (*fabmihī*). For on the outside, it seems to be no more than reports of foregone times and nations. . . . On the inside, it is [a work of] speculation (*nazar*) and critical investigation (*taḥqīq*), meticulous causal explanation of beings and their principles (*ta'līl li-l-kā'ināt wa-mabādī'ihā daqīq*) and in-depth knowledge of the modes and causes of events (*'ilm bi-kayfiyyāt al-waqā'ī' wa-asbābihā 'amīq*).⁵⁵

The first six sentences—in the Arabic text, just one sentence—speak of the virtue of history and are self-explanatory for the most part. Simply put, history is a branch of knowledge cultivated across societies and generations and fascinates people from diverse backgrounds: rulers of different ranks, the scholarly and the unlearned, young and seasoned travellers, and so on. The sixth sentence, however, '*yatasāwā fī fabmihī al-'ulamā' wa-l-jubbhāl'*—rendered above as 'experts and non-experts have equal appreciation of it'—has been a source of confusion. Rosenthal has read it as 'the learned and the ignorant are able to understand it'.⁵⁶ Waseem El-Rayes has translated it in similar terms as 'the knowledgeable and the ignorant are equal in their understanding of it'.⁵⁷ El-Rayes has called this a 'strange opening comment', for, in his view, it equates the learned and unlearned with respect to their ability to grasp historical information.⁵⁸ However, from a different angle and if put within the larger context of Ibn Khaldūn's

⁵⁵ Ibn Khaldūn, *Muqaddima*, i. 5–6.

⁵⁶ Ibn Khaldūn, *The Muqaddimah: An Introduction to History* (transl. Franz Rosenthal; London: Routledge, 3 vols., 1958), i. 5.

⁵⁷ Waseem El-Rayes, 'An ambiguous beginning: *al-zāhir wa-l-bāṭin* in Ibn Khaldūn's Preface to the *Muqaddima*', *Arabic Sciences and Philosophy*, 25/2 (2015): 225–47, at 229.

⁵⁸ *Ibid.*, 237–8. Despite this assumption, which seems to have inspired the title of El-Rayes' article, he appears elsewhere (p. 245) to read Ibn Khaldūn's equation of the 'ignorant' with the 'learned' as equality in their 'claim to understand history' and not necessarily their grasp of its inner meaning.

account of the merit of history writing, this statement is neither strange nor ambiguous.

The sentence in question consists of two main parts: ‘*yatasāwā fī fahmibī*’ and ‘*al-‘ulamā’ wa-l-jubbāl*’. The latter part should be understood in the *particular* sense of experts and non-experts, not in the *general* sense of knowledgeable/learned and ignorant since the ‘*ulamā*’ about whom Ibn Khaldūn talks are those who have knowledge of history as an art. The *jubbāl*, on the other hand, are those who lack such disciplinary training. As for the first expression, ‘*yatasāwā fī fahmihī*’, it should be rendered as having equal *appreciation* of history, not equal *understanding* of it. Ibn Khaldūn’s subsequent explanatory clause, ‘since on the outside, it is no more than. . .’ (*idh huwa fī zāhirihī lā yazīd ‘alā*), affirms this reading. We learn that the reason behind history’s ability to attract the various groups is because it mediates outward (*zāhir*) and inward (*bāṭin*) levels of appeal. Non-experts are drawn to its surface level (as mere reports of events and occurrences) and so *appreciate* its apparent meaning. Experts go deeper to find the interior conditions and causes of those events and occurrences.

The language of the extract above, as of the entire preface of the *Muqaddima*, is carefully woven and laden with technical terms that give us a clear indication of how Ibn Khaldūn understood history and what he thought was best practice in it. Most worthy of attention are the terms *naẓar* (speculation), *taḥqīq* (critical investigation), *ta’līl* (causal explanation), and the binaries of *taqlīd/ijtihād* and *zāhir/bāṭin*, the latter being the key to the others. *Zāhir* and *bāṭin* are among the most debated concepts in Islamic intellectual history and central to the discourse of Qur’ānic interpretation. As a hermeneutical model, the *zāhir/bāṭin* binary has more prominence in Sufi and Shi’i circles.⁵⁹ Ibn Khaldūn uses it to stress that history operates at two levels: the outward and apparent, and the inward and hidden. Outwardly (*fī zāhirihī*), history appears to be ‘no more than’ reports of the past. One who confines himself to this aspect of history serves as a mere transmitter (*nāqil*), passing on information. Internally (*fī bāṭinīhī*), history holds deeper meaning attainable by those who have specific skills of historical research, who do not merely transmit historical information, but also process and interpret it. The set of skills that they require for this purpose include, in Ibn Khaldūn’s order, speculation (*naẓar*), critical investigation (*taḥqīq*), meticulous causal explanation of beings and their principles (*ta’līl li-l-kā’ināt wa-mabādī ihā*

⁵⁹ See, for more, Ismail Poonawala, art. ‘*al-Zāhir wa’l-Bāṭin*’ in *EI*². Online: http://dx.doi.org/10.1163/1573-3912_islam_SIM_8078.

daqīq), and in-depth knowledge of the modes and causes of events (*‘ilm bi-kayfiyyāt al-waqā’i’ wa-asbābihā ‘amīq*).⁶⁰

The term *‘naẓar*’ is understood in its technical sense by the classical Muslim philosophers and theologians as a rational activity and process of speculation. *Kalām*, as is well known, used to be called *‘‘ilm al-naẓar*’ (the science of speculative theology) and those associated with it as *‘ahl al-naẓar*’. Sufis also employ *naẓar* but more in the sense of spiritual perception. Unlike the philosophers and theologians, they situate it within the realm of sense (not mind), and believe that *true* knowledge is gained through intuition, not through reasoning by way of logic or other rational processes.⁶¹ Ibn Khaldūn, despite his affinity for *taṣawwuf*, conceives of *naẓar* in the former sense. His implementation of it throughout the *Muqaddima* manifests his studious endeavour to *theorize* and *speculate on* history; particularly so through his theory of society and culture (*‘ilm al-‘umrān*), which he uses as an analytical model to read and explain historical processes of social change.

The second term, *‘taḥqīq*’, derives from *‘ḥaqq*’ (truth) and entails an effort of verification. *Taḥqīq* and *naẓar* are sometimes used in one expression, *‘taḥqīq al-naẓar*’, which means verification by rational effort. Ibn Khaldūn conceives of *taḥqīq* in this sense, as an action of probing and ascertaining historical information by way of systematic and critical examination. My translation of it as ‘critical investigation’ tries to convey this intention. However, neither the suggested phrase nor any other can properly convey a key attribute that underlies the way Muslims understood *taḥqīq*; namely, the pursuit of truth as a *personal enterprise*, or learning for oneself and without relying upon others.⁶² This does not mean to disregard the available scholarship entirely, but it does distinguish the *muḥaqqiq* (the scholar who relies on personal effort and ability to arrive at the truth) from the *muqallid* (one who relies on the findings of another). Like his predecessors, Ibn Khaldūn understood *taḥqīq* in juxtaposition to *taqlīd*. Accordingly, he holds the dominance of uncrit-

⁶⁰ Ibn Khaldūn, *Muqaddima*, i. 5–7.

⁶¹ For the different uses of *naẓar* by philosophers, theologians and Sufis, see, Tjitze de Boer and Hans Daiber, art. ‘*Nazar*’, *EI*². Online: http://dx.doi.org/10.1163/1573-3912_islam_SIM_5872.

⁶² Classical Muslim scholars used different expressions to convey the personal motive behind their work, such as ‘to establish for myself’ (*uthbit li-nafsī*). For example, Ibn Rushd (d. 595/1198), *Sharḥ Bidāyat al-mujtahid wa-nibāyat al-muqtaṣid* (ed. ‘Abd Allāh al-‘Abbādī; Cairo: Dār as-Salām, 4 vols., 1995), i. 13; and *al-Ḍarūrī fī uṣūl al-fiqh*, *aw*, *Mukhtaṣar al-Mustaṣfā* (ed. Jamāl al-Dīn al-‘Alawī; Beirut: Dār al-Gharb al-Islāmī, 1994), 34.

ical transmission of historical reports to go hand in hand with the lack of critical inquiry.⁶³

The third term, *taʿlil*, cognate with *ʿilla* (cause, reason), means a rational process of explaining and justifying actions by way of their causes. In the legal domain, *taʿlil* denotes the effort to define the *ratio legis*, the rationale underpinning a legal text or ruling.⁶⁴ It also holds the same value for the grammarians as it played a central role in the development of Arabic grammar.⁶⁵ In the extract quoted above, Ibn Khaldūn calls for ‘meticulous explanation of the principles of beings’ and ‘an in-depth knowledge of the modes and causes of events’.⁶⁶ The first phrase entails the effort of *taʿlil*, the second broadens the scope of that effort to encourage the disposition to pay attention to the modes and causes of events. Throughout the *Muqaddima*, Ibn Khaldūn demonstrates his interest not only in the *what* of events, but also in their *how* and *why*, since, in his view, it is the ascertainment of the causes of events which marks out a *real* critical historical study from a mere transmission of reports, thus the work of a *muḥaqqiq* from that of a *muqallid*.

The significance of *taʿlil* in the *Muqaddima* manifests in at least two ways: in his attempt to explain the causes of major events, and to ground the theory of cyclical social change in a strict model of causality. Ibn Khaldūn’s emphasis on causality was motivated by his commitment to ground the study of history in the rational method and also by his commitment to some sort of determinism whereby he believes that actions and events are the inevitable effects of preceding causes. Majid Fakhry has identified two modes of determinism in Ibn Khaldūn’s historical approach. One is based on the notion that God is the first cause of change (from a metaphysical point of view). The other is natural and positive and refers to historical and ecological factors.⁶⁷

⁶³ Ibn Khaldūn, *Muqaddima*, i. 6.

⁶⁴ See, for legal *taʿlil*, Mohammad H. Kamali, ‘The *Shariʿa*: Law as the Way of God’ in Vincent J. Cornell (ed.), *Voices of Islam* (Westport, CT: Praeger, 5 vols., 2007), i. 149–81, esp. 167–8.

⁶⁵ E.g., Ramzi Balabakki, *The Legacy of the Kitab: Sibawayhi’s Analytical Methods within the Context of the Arabic Grammatical Theory* (Boston, MA: Brill, 2008), esp. 265–7.

⁶⁶ Ibn Khaldūn, *Muqaddima*, i. 6.

⁶⁷ Majid Fakhry, *Islamic Philosophy, Theology and Mysticism: A Short Introduction* (Oxford: Oneworld, 2000), 111–12. See also an account of the Ashʿarī background of Ibn Khaldūn’s determinism in Muḥammad ʿĀbid al-Jābirī, *Fikr Ibn Khaldūn: al-ʿaṣabiyya wa-l-dawla, maʿālim naẓariyya Khaldūniyya fī al-tārīkh al-Islāmī* (Beirut: Markaz Dirāsāt al-Waḥda al-ʿArabiyya, 6th edn., 1994), 80–3.

As Mahdi has put it, Ibn Khaldūn aspires not only ‘to relate history, but also to pass beyond history’.⁶⁸ His goal is not simply to transmit historical information, but also to interpret and derive lessons from it. In fact, the use of ‘*ibar*’ (lessons, examples, admonitions) in the very title of his book, *Kitāb al-‘Ibar*, to which the *Muqaddima* is intended as a prolegomenon, implies this.⁶⁹ The various tools of critical enquiry which he promotes (*naẓar*, *taḥqīq*, *ta’līl*) are designed to help the scholar *understand* and *explain* historical information, not merely transmit and arrange it. Unreflective transmitting of reports is what he criticizes strongly in his contemporaries, alongside their failure to reconstruct the causes of events and identify delusive reports. In this respect, Ibn Khaldūn further explains that:

The authoritative historians in Islam made extensive historical collections. . . Many of their successors followed their example and transmitted them as they heard them. [However,] they neither observed and considered the causes of events and circumstances, nor disapproved and rejected absurd stories. Little attention was given to [the way of] critical investigation and their inquisitive sense was often weak. Misconception and error are unavoidable in [transmitting] historical information and *taqlīd* is an inherent disposition in human beings. . . The transmitter merely copies and dictates. But, it is sharp insight which discerns that which is genuine, and it is (scientific) knowledge which clarifies and polishes that which is right.⁷⁰

Though Ibn Khaldūn seems in this passage to direct his criticism at the generation of scholars that succeeded the authoritative historians (*fuḥūl al-mu’arrikhīn*), the latter too are not exempted, since their narrative is symptomatic of uncritical transmission. Two authoritative historians whom he cites frequently, Ibn Jarīr al-Ṭabarī (d. 310/923) and Abū al-Ḥasan al-Mas‘ūdī (d. 346/957), rarely reflected on the nature and causes of events.⁷¹ Ṭabarī especially and openly favours the method of transmission. In his preface to *Tārīkh*, he declares: ‘everything I say and present [in this book] is ascertained by reports that I ascribe to their

⁶⁸ Mahdi, *Ibn Khaldūn’s Philosophy of History*, 70.

⁶⁹ See (ibid, 64–71) Mahdi’s analysis of Ibn Khaldūn’s choice of ‘*ibar*’ instead of ‘*tārīkh*’ (history), which is more commonly used by Muslim historians in their titles.

⁷⁰ Ibn Khaldūn, *Muqaddima*, i. 6–7.

⁷¹ Cf. Abū al-Ḥasan al-Mas‘ūdī, *Murūj al-dhahab wa-ma‘ādin al-jawhar* (The meadows of gold and metals of jewel) (ed. Kamāl Ḥasan Mar‘ī; Beirut: al-Maktaba al-‘Aṣriyya, 4 vols., 2005), and Abū Ja‘far Muḥammad b. Jarīr al-Ṭabarī, *Tārīkh al-Ṭabarī: Tārīkh al-rusul wa-l-mulūk* (ed. Muḥammad Abū al-Faḍl Ibrāhīm; Cairo: Dār al-Ma‘ārif, 2nd edn., 11 vols., 1967).

narrators, not by deduction or rational proofs, except minimally'.⁷² He holds that knowledge of history ought to be obtained through transmitted reports (*naql al-nāqilin*), not to be deduced by reasoning (*istikhrāj bi-l-'uqūl*). And so, he warns his readers that 'any information in my book that the reader disproves, or the listener finds atrocious, it should be known that it is not from us, but from those who transmitted it to us. We simply delivered it exactly as it has been passed on to us'.⁷³ By acting as a mere transmitter of reports, Ṭabarī believes, a historian is shielded from critique for inconsistencies found in their work. Blame must be directed at the original narrators of those reports.

Establishing with evidence the truth of historical reports (*taḥqīq* in its broad sense) is also a top priority for Ṭabarī and other predecessors of Ibn Khaldūn. However, the methodological tools they engaged for this purpose are different from those that he promoted. For example, ascertaining the chain of the transmitters (*isnād*) is one such a tool.⁷⁴ Ibn Khaldūn sees little value in it and does not use it in the *Ibar* or in the *Muqaddima*. *Isnād* alone is not sufficient for verifying information. What helps distinguish genuine from fictitious reports, as he states in the quote above, is scientific knowledge and insight (*baṣīra*)—he uses *baṣīra* in a sense close to *naẓar*, rational reflection.⁷⁵

As far as his legal narrative is concerned, Ibn Khaldūn remains faithful to this philosophy. This manifests in his innovative analysis and broad knowledge of the various subjects he addresses. On the one hand, he presents several incisive and detailed reflections on technical matters which only an insider versed in the intricacies of Islamic law could have presented. Such is his critique of his fellow Mālikī scholars for debating the legal principle of the practice of the people of Madina ('*amal ahl al-Madīna*) under the rubric of *ijmā'* when, in his opinion, it should be undertaken under the heading of the disputed proofs—such as the principles of pre-Islamic revealed laws (*shar' man qablanā*), the presumption of continuity (*istiṣḥāb*) and the personal teaching of an individual Companion (*madhhab al-ṣaḥābī*).⁷⁶

So far, we have presented one part of the answer to the question of why Ibn Khaldūn emphasizes interpretation and analysis beyond mere

⁷² Ṭabarī, *Tārīkh*, i. 7–8.

⁷³ Ṭabarī, *Tārīkh*, i. 8.

⁷⁴ Citing the chain of authorities and narrators of reports (*isnād*), which prevailed in studies of *ḥadīth*, was also a popular practice among historians. See, for the use of *isnād* in various disciplines, Montgomery Watt, *Islam and the Integration of Society* (London: Routledge, [1961] 2000), 223–8.

⁷⁵ Ibn Khaldūn, *Muqaddima*, i. 7.

⁷⁶ *Ibid*, iii. 5–6.

transmission of reports. The other part is his endeavour to make a niche for the art of history among the established scientific disciplines. This manifests especially in his division of knowledge into two groups: intellectual-philosophical (*al-ḥikmiyya al-falsafiyya*) and traditional-positive (*al-naqliyya al-waḍ'īyya*).⁷⁷ As he explains, the difference between the two is that humans, insofar as they are rational beings, rely on their intellectual abilities to gain access to the former kind of knowledge. Whereas for the latter, they depend on content originated by a religious authority—a prophet in the context of the Muslim community. Sciences of the first kind are universal by their nature, therefore may be found in other societies. They include, and this justifies why he calls them 'philosophical', the four main domains of Greek philosophy: logic, the natural sciences (e.g., medicine, chemistry, physics), metaphysics, and the mathematical sciences (e.g., geometry, arithmetic, astronomy, music).⁷⁸ By contrast, the traditional sciences are particular to a community. For Muslims, they include the different sciences and sub-sciences of the Qur'ān, *ḥadīth*, law, theology, and linguistics among others.⁷⁹

Oddly enough, Ibn Khaldūn remains silent about history and its place in this division. One reason may be the fact that history is absent in Aristotle's classification of the sciences which is the key source of Ibn Khaldūn's. In general, there are two main views concerning Aristotle's position on history. Both confirm that Aristotle is aware of history as an art and reflects on it in comparison with poetics. However, they disagree about the 'scientific' status that he assigns to it. In one view, Aristotle mentions history only to dismiss it. He considers poetry more philosophical since it deals with knowledge that is universal and necessary, and he deems history less philosophical as it covers subjects that are particular and contingent on the past. Therefore, since Aristotle does not produce a philosophy of history nor include it in his classification of the sciences, we may suppose it held no interest for him as far as a 'science'.⁸⁰ The other view is that Aristotle does not dismiss history. Despite not classifying it, a great deal of his writing is historical and is grounded in demonstration and a formalistic system of reasoning, therefore, it conforms with his philosophical approach.⁸¹

⁷⁷ Ibid, ii. 358.

⁷⁸ Ibid, iii. 71–2.

⁷⁹ Ibid, ii. 358–60.

⁸⁰ See, e.g., Christopher Shields, art. 'Aristotle' in Edward N. Zalta (ed.), *The Stanford Encyclopedia of Philosophy* (Winter 2016 edn.). Online: <https://plato.stanford.edu/archives/win2016/entries/aristotle>.

⁸¹ See, e.g., Lucio Bertelli, 'Aristotle and history' in Giovanni Parmegianni (ed.), *Between Thucydides and Polybius: The Golden Age of Greek Historiography* (Washington, DC: Center for Hellenic Studies, 2014): 289–304.

The other question that puzzled some scholars is why Ibn Khaldūn did not adopt the more standard medieval philosophical distinction of the sciences as *theoretical* or *practical*.⁸² This is very important since his intention was to found historical writing on the rational and philosophical method and that distinction was already in use in his time. The Andalusian jurist and philosopher, Abū al-Walīd Ibn Rushd used it in his commentary on al-Ghazālī's (d. 505/1111) *al-Mustaṣfā min 'ilm al-uṣūl*. He distinguished three classes of knowledge: theoretical, practical, and (what Ibn Khaldūn would later identify as) 'instrumental'.⁸³ Theoretical sciences are sought for their own sake, to gain knowledge of their subject matter (e.g., metaphysics, pure mathematics). Practical sciences require action once acquired (e.g., medicine, politics). The third class are the sciences that are used to check for error (e.g., grammar in linguistics or logic in philosophy). The legal sciences belong to the second and are in turn divided by Ibn Rushd into 'particular' (*fiqh*, the study of the *aḥkām* and substantive legal questions) and 'universal' (*uṣūl al-fiqh*, the study of the fundamentals of Islamic jurisprudence).⁸⁴ Ibn Rushd thus provides a classification entirely different from Ghazālī's tripartite division of sciences into: the purely rational ('*aqlī maḥḍ*, such as arithmetic and astronomy), the purely traditional (*naqlī maḥḍ*, such as *ḥadīth* and Qur'ān exegesis), and those that are both rational and traditional (for Ghazālī, *fiqh* and *uṣūl al-fiqh*).⁸⁵

Ibn Khaldūn's classification seems to fit between those of Ibn Rushd and Ghazālī. This becomes clear from the slightly revised division found towards the end of Ibn Khaldūn's account of the sciences where he identifies two major forms of knowledge. The first includes sciences sought for their own sake (*maqṣūda bi-dhāt*), such as *fiqh*, *ḥadīth* and *kalām* among the traditional sciences, and metaphysics and natural sciences among the philosophical. The second is knowledge pursued to fulfil the first type, such as grammar and arithmetic in law and logic in philosophy or reasoning. He calls the latter 'instrumental sciences'

⁸² For example, Maḥdi, *Ibn Khaldūn's Philosophy of History*, 82–3. See, also, Abderrahmane Lakhsassi, 'Ibn Khaldun and the classification of the sciences', *The Maghreb Review*, 4/1 (1979): 21–25, at 25, which is a summary of a larger discussion in 'The epistemological foundations of the sciences in Ibn Khaldūn's "Muqaddima": the classification of the sciences and the problem of the "spiritual sciences"' (PhD diss., University of Manchester, 1982).

⁸³ Ibn Rushd, *al-Ḍarūrī fī uṣūl al-fiqh aw Mukhtaṣar al-Mustaṣfā* (ed. Jamāl al-Dīn 'Alawī; Beirut: Dār al-Gharb al-Islāmī, 1994), 34–5.

⁸⁴ *Ibid*, 35.

⁸⁵ See, Abū Ḥāmid al-Ghazālī, *al-Mustaṣfā min 'ilm al-uṣūl* (ed. Ḥamza b. Zubayr Ḥāfiz; Madina: H. b. Z. Ḥāfiz, 4 vols., 1992), i. 3–4 and 12.

(*‘ulūm āliyya*).⁸⁶ Thus, the knowledge that Ibn Khaldūn identifies as *‘ḥikmiyya* and *naqliyya*’ is similar to what Ghazālī calls *‘aqliyya* and *naqliyya*’, whereas Ibn Khaldūn’s *‘ulūm āliyya*’ correspond to the third class in Ibn Rushd’s division.

Nevertheless, the conceptual basis of Ibn Khaldūn’s classification differs significantly from that of both Ibn Rushd and Ghazālī. Mainly, what defines a science in his epistemology is neither its end (theory/practice for Ibn Rushd), nor its source of authority (reason/tradition for Ghazālī). Rather, it is the social and historical value of that science. This position is reflective of and sustains Ibn Khaldūn’s theory of culture and society (*‘ilm al-‘umrān*), which is considered by many as his greatest scholarly contribution.⁸⁷ Abderrahmane Lakhsassi has argued that when Ibn Khaldūn writes about the sciences, he implements three modes of discourse. He uses a *historical discourse* to report their origin and development, an *‘umrānic discourse* to establish their usefulness or harmfulness for society, and an *epistemic discourse* to expand on their object of study and end.⁸⁸

The underlying principle of the theory of *‘umrān* is that all structures of social organization (societies, cities, dynasties, regimes, economies, etc.) undergo an inevitable cycle of evolution and devolution. The main feature of this transformation for societies is their passage from a pastoral and nomadic culture (*‘umrān badawī*) to a sedentary culture (*‘umrān ḥaḍarī*). Societies transition from a primitive stage marked by simplicity and basic necessities to a stage at the end of which more complex forms of social, cultural and technological systems are experienced.⁸⁹ This may be the principle behind Ibn Khaldūn’s inclination to put all the philosophical sciences in one group and the other sciences in another. For the former sciences emerged in a social and historical

⁸⁶ Ibn Khaldūn, *Muqaddima*, iii. 218–19.

⁸⁷ The word *‘umrān*’ has been translated in various ways, including ‘civilization’ (Rosenthal, Ahmad, and Fakhry), ‘human association’ (Rabi), and ‘culture’ (Mahdi). See, respectively, Rosenthal’s translation of the *Muqaddima*, *passim*; Zaid Ahmad, *The Epistemology of Ibn Khaldūn* (London: Routledge and Curzon, 2003), 19; Majid Fakhry, *Islamic Philosophy*, 109; Muhammad Mahmud Rabi, *The Political Theory of Ibn Khaldūn* (Leiden: Brill, 1967), 23; and Mahdi, *Ibn Khaldūn’s Philosophy of History*, 184.

⁸⁸ Lakhsassi, ‘Ibn Khaldun and the classification of the sciences’, 25. For a critique of Lakhsassi’s account, especially the argument that Ibn Khaldūn’s theory of knowledge conflicts with his classification of the sciences, see Steve Johnson, ‘The *‘umrānic* nature of Ibn Khaldūn’s classification of the sciences’, *The Muslim World*, 81, 3/4 (1991): 254–61.

⁸⁹ Ibn Khaldūn, *Muqaddima*, i. 191–2 (for a concise account of this transition), i. 189–256 (for *‘umrān badawī*), and ii. 171–242 (for *‘umrān ḥaḍarī*).

context different from that of the Arabs and are the product of an advanced culture. Whereas the latter appeared in a less advanced culture and are rooted in a tradition that is shaped, in a variety of ways, by the Qur'ān and Sunna—as sources of authority for those sciences or for their objects of interest.

Since one of the properties of Bedouin culture is simplicity and keeping to the essentials, Arabs always, according to Ibn Khaldūn, have naturally gravitated toward simpler ways of knowledge acquisition and instruction, such as *naql*.⁹⁰ Arabs were a 'natural group' (*jīl al-'arab fī al-khalīqa ṭabī'ī*) whose encounter with *'umrān* and advanced culture was recent.⁹¹ By extension, the sciences and the crafts appeared in them after the rise of Islam and became more sophisticated only after they became exposed to other cultures and civilizations. Therefore, their rootedness in Bedouin culture and remoteness from sedentary culture made them less inclined to the crafts compared to other ethnic groups, such as the non-Arabs of the East and the Christian nations along the Mediterranean Sea.⁹²

To recapitulate, the conceptual basis of Ibn Khaldūn's classification of knowledge is informed by his interest in the social. For what defines a science's type in his opinion is not its end (theory/practice for the philosophers) or source of authority (reason/tradition for the theologians), but its social and historical value. It is for this reason that he places all the philosophical-intellectual sciences (natural sciences, physics, metaphysics and logic) in one group, since they come from a different social and cultural context and are the outcome of an advanced civilization. He puts the traditional-positive sciences (linguistics, law, Qur'ān and *ḥadīth*, etc.) in another group, because, in addition to the fact that the Qur'ān and Sunna constitute their sources of authority and/or subject of research, they represent an earlier stage of societal development. This stage is reflective of the Arabs and their psychological state of *badāwa* which

⁹⁰ By *al-'arab*, Ibn Khaldūn means either Bedouin Arabs or Arabs more broadly, depending on the context of his discussion. One should be careful not to confuse the two. As well as calling them a natural group, he writes of their being the most remote from monarchical politics (i. 251), the territories they control being quickly brought to ruin (i. 247), and, with few exceptions, the structures they build being also quickly brought to ruin (ii. 203).

⁹¹ Ibn Khaldūn, *Muqaddima*, i. 193. See, on his concept of human nature, Mahmoud Dhauadi, 'The forgotten concept of human nature in Khaldunian studies', *Asian Journal of Social Science*, 36 3/4 (2008): 571–89, esp. at 579–81 on the Arab/ Bedouin condition.

⁹² Ibn Khaldūn, *Muqaddima*, ii. 288.

draws them towards simpler modes of knowledge acquisition and instruction, such as transmission (*naql*).

Fiqh and Uṣūl al-Fiqh in the Muqaddima

The concept of *ʿumrān* is not only important for understanding Ibn Khaldūn's philosophy of legal history. It is also crucial for unravelling the story that he weaves about the origins and development of the law and its institutions. Ibn Khaldūn's desire to ground the history of Islamic law in its social context is also evidenced by his focus on its diversity and plurality, an emphasis which allowed him to engage with the Shari'a not as a divine realm of transcendence and permanence, but as a human realm of change and diversity. This manifests in two ways in the *Muqaddima*. The first and more discernible is his designation of a separate section to legal controversy (*al-khilāfiyyāt*). The second and less perceptible way is how he makes difference and multiplicity of opinion a point of reference and the backbone of his discussion, to the extent that, with almost every idea and event that he recounts, he stresses directly and indirectly the points of conflict and diversity. The following is an effort to retrace Ibn Khaldūn's story of *fiqh* and *uṣūl al-fiqh* in the *Muqaddima*, the story which he tells as a story of *khilāf*.

Ibn Khaldūn discusses *fiqh* and *uṣūl al-fiqh* in the *Muqaddima* in two sections in a chapter on the classification of the sciences. Under the *fiqh* section, he makes a brief mention of inheritance law (*farā'id*). To the *uṣūl* section, he appends subsections on the sciences of dialectic (*jadāl*) and legal controversy (*ʿilm al-khilāfiyyāt*).⁹³ Here Ibn Khaldūn seems to be following the philosophers' teleological classification of knowledge into theoretical and practical. So, *fiqh* and its subcategory of inheritance law represent the practical field of Islamic law. *Uṣūl* and its subdivisions of dialectic and *khilāfiyyāt* constitute its domain of theoretical deliberation. The section of *fiqh* begins with a concise definition of *fiqh* as the knowledge of God's rulings (*ahkām*) regarding the legal subjects' actions and the procedures by which these rulings (by way of obligation, prohibition, commendation, discouragement, and permission) are derived from indicants (*adilla*) in the Qur'ān, Sunna and other sources (i.e., *ijmā'* and *qiyās*).⁹⁴ With this definition, Ibn Khaldūn adverts to a distinction between the Shari'a as embodying a transcendent divine will and *fiqh* as the

⁹³ *Khilāfiyyāt* (also *khilāf* and *ikhtilāf*) refers to jurists' disputes and the body of knowledge and science that studies them. I use the word '*khilāf*' in this paper to imply jurists' disputes broadly. To refer to the discipline of *khilāf*, I append the word 'genre' or 'science' to it.

⁹⁴ Ibn Khaldūn, *Muqaddima*, iii. 3.

human process of explaining its meaning that is subject to change and alteration.

Ibn Khaldūn's interest in multiplicity of legal opinion is invoked right from the start. His second sentence points out the inherent contradiction of the legal indicants and how this made the jurists disagree over several issues—leading to the birth of the science of legal controversy. He lists four main reasons behind the rise of *khilāf*. The first is the intricacy of the 'language of the Arabs' (*lughat al-ʿArab*). He also calls it '*lughat Muḍar*', by which he means the speech habits (*malakat al-lisān*) of the tribes of Muḍar in West Central Arabia. This is the particular Arabic that the Prophet spoke to his people and in which the Qurʾān was revealed—but no longer exists since it is now mixed with non-Arabic languages (*al-ʿujma*). This system of speech habits is conventional. In other words, it is acquired from tradition (e.g., from the Qurʾān, *ḥadīth*, early poetry), and not through rational processes and ways such as grammar.⁹⁵ Other reasons for the emergence of *khilāf* include pursuing different approaches to ascertaining the *sunna*, conflicting *ḥadīths*, and debating the authority of sources other than Qurʾān and Sunna (i.e., *ijmāʿ* and *qiyās*), indeed the very need for and use of *qiyās*. For Ibn Khaldūn, all these factors were unavoidable and gave rise to inevitable conflicts among the first generation of jurists and the legal schools afterward.⁹⁶

For the basic question of how law as a science came to exist in the Muslim community, Ibn Khaldūn provides an explanation that reinforces his interest in the social. His story began with a group of the Prophet's companions to whom Muslims appealed for answers to religious and legal questions. They were called 'the readers' (*al-qurrāʾ*), because, in a society that is for the most part illiterate, they were distinguished by their ability to read and explain the Qurʾānic meaning, in addition to their familiarity with issues of ambiguity, abrogation and circumstances of the revelation. As Muslims' conquests expanded and Arabs gradually transitioned from oral into written culture, legal practice evolved into a systemic craft. The 'readers' became known as 'jurists' and 'scholars' (*al-fuqahāʾ wa-l-ʿulamāʾ*).⁹⁷ Soon, two trends of legal enquiry emerged: the rational school of *raʾy* in Iraq and the traditional school of *ḥadīth* in the Levant and North Africa. In the spirit of his theory of *ʿumrān*, Ibn Khaldūn observes that the traditional method dominated in the Maghrib and Hijaz because the inhabitants of these regions were by their nature closer to *badāwa* and their societies had not

⁹⁵ For more on *lughat al-ʿArab*, see, Ibn Khaldūn, *Muqaddima*, iii. 252–60.

⁹⁶ Ibn Khaldūn, *Muqaddima*, iii. 3.

⁹⁷ *Ibid*, 4.

been exposed to advanced forms of *ḥadāra*, compared to the Iraqis who were drawn more to the rational method.⁹⁸

Once the legal schools were settled, a new phase in the development of Islamic law began. Ibn Khaldūn reads the dominance of the Mālikī, Shāfiʿī, Ḥanafī and Ḥanbalī schools of law as a turning point in the history of Sunni law and writes about it in terms of the prevalence of *taqlīd* and the decline of *ijtihād*. His narrative goes as follows: after Muslims were confined to these four legal schools, the legal study lacked in innovation and was reduced to mere transmission of rulings and legal theories. One of the reasons for this development is that the sciences branched out vastly and grew more complex so that it became arduous, if not impossible, to gain the rank of *ijtihād*. As a consequence, scholars declared a state of permanent incompetence and closed the gate of juristic disagreement.⁹⁹ The practice of *ijtihād* and *khilāf* did not cease entirely, however. It shifted from inter-*madhhab khilāf* (disagreements across the schools) to intra-*madhhab khilāf* (within the same school) as scholars became less interested in, or rather incapable of, comparing the hermeneutical theories of all the different dominant schools, but could do so within their own schools.

The idea of a shift of interest in *khilāf* from inter-*madhhab* to intra-*madhhab* is supported by at least two of Ibn Khaldūn's statements about the Mālikī school. The first can be inferred from what he highlights about the life and careers of the authorities he mentions. On Asad Ibn al-Furāt (d. 213/828), for example, he gives prominence to his education and major work, the *Asadiyya*.¹⁰⁰ An interesting fact about Ibn al-Furāt is that he first studied Ḥanafī law in Iraq, then Mālikī law in Madina and Egypt. His *Asadiyya* is a collection of Ḥanafī legal questions that he gathered during his stay in Iraq. When he came to Egypt, he examined them with Ibn al-Qāsim in the light of Mālikī law.¹⁰¹ Although many key later Mālikī works, including the well-known *Mudawwana* of Saḥnūn b. Saʿīd b. Ḥabīb al-Tanūkhi (d. 240/854), were based on the *Asadiyya*, the latter was not entirely free from controversy. Ibn al-Furāt was criticized especially for assimilating aspects of Ḥanafī hermeneutics

⁹⁸ Ibid, 21.

⁹⁹ Ibid, 6.

¹⁰⁰ Ibid, 9–11. Abū ʿAbd Allāh Asad Ibn al-Furāt is credited by Ibn Khaldūn for introducing the Mālikī *madhhab* in the Maghrib and Andalus. For an extensive biography, see, al-Qāḍī Iyāḍ b. Mūsā (d. 544/1149), *Tartīb al-madārik wa-taqrīb al-masālik li-maʿrifat aʿlām madhhab Mālik* (The luminaries of the school of Mālik) (ed. ʿAbd al-Qādir al-Ṣahrāwī; al-Muḥammadiya: Wizārat al-Awqāf wa-l-Shuʿūn al-Islāmiyya, 7 vols., 1983), iii. 291–309.

¹⁰¹ This must be Abū ʿAbd al-Raḥmān b. Khālid b. Junāda (d.191/806), a long-time companion of Mālik and a pioneer Mālikī scholar in Egypt.

and for refusing to alter certain opinions of Ibn al-Qāsim that the latter himself did abandon towards the end of his life. For these reasons, the *Asadiyya* was, according to the authoritative Mālikī al-Qāḍī ‘Iyād, renounced by the Mālikīs (especially the North Africans) and soon eclipsed by the *Mudawwana*.¹⁰²

The second of Ibn Khaldūn’s statements can be inferred from his account of three early Mālikī sub-schools: the Qarawiyyīn in the Maghrib, the Cordovan in Andalus, and the Iraḳī and Egyptian.¹⁰³ These three acted independently at the beginning, but their hermeneutical approaches merged later (*imtaẓajat al-ṭuruq*).¹⁰⁴ Components of the Andalusian school’s hermeneutics were transmitted to the Egyptian school through al-Ṭurṭūshī (d. 520/1126), author of a non-extant book of *khilāf* titled *al-Kitāb al-kabīr fī masā’il al-ikhṭilāf*.¹⁰⁵ The Moroccan school took from the Iraḳī school through al-Shārimṣāhī (d. 669/1271).¹⁰⁶ Shārimṣāhī wrote *al-Ta’līqa fī al-khilāf*, also non-extant and taught at the Mustanṣirī school of Baghdad, which provided training in the four legal doctrines and regularly hosted debates between their adherents.¹⁰⁷ Lastly, the Egyptian school assimilated elements of the Moroccan school through Ibn al-Ḥājib (d. 646/1249), author of the popular comparative summary of Mālikī law, *Jāmi’ al-ummahāt*, with which Ibn Khaldūn was familiar and which he used in his classes.¹⁰⁸

¹⁰² For more on the controversy around the *Asadiyya*, see, al-Qāḍī ‘Iyād, *Tartīb al-Madārik*, iii, 296–301.

¹⁰³ The Mālikī school of Egypt, for Ibn Khaldūn, is an extension of the Iraḳī, therefore, they make one school. See, Ibn Khaldūn, *Muqaddima*, iii, 10.

¹⁰⁴ *Ibid*, 11.

¹⁰⁵ Abū Bakr Muḥammad b. al-Walīd b. Khalaf b. Sulaymān b. Ayyūb al-Qurashī al-Fihri, called al-Ṭurṭūshī after his birth town Tortosa in Spain. See, Shams al-Dīn Aḥmad b. Muḥammad b. Abī Bakr Ibn Khallikān, *Wafayāt al-a’yān wa-anbā’ al-zamān* (ed. Iḥsān ‘Abbās; Beirut: Dār Ṣādir, 8 vols., 1968–72?), iv, 262–5. Ibn Khallikān remarks (*Wafayāt*, iv, 263) that Ṭurṭūshī studied *khilāf* with Abū l-Walīd al-Bājī (d. 474/1081).

¹⁰⁶ ‘Abd Allāh b. ‘Abd al-Raḥmān, called al-Shārimṣāhī after his birth town, Shārimṣāh in Egypt.

¹⁰⁷ Ibrāhīm b. ‘Alī b. Muḥammad Ibn Farḥūn, *al-Dībāj al-mudhabhab fī ma’rifat a’yān ‘ulamā’ al-madhabhab* (The nobilities of the Mālikī school) (ed. Muḥammad al-Aḥmadī Abū l-Nūr; Cairo: Dār al-Thurāth li-l-Ṭab‘ wa-l-Nashr, 2 vols., 1975–76), i, 448–9, esp. n. 7.

¹⁰⁸ See, Ibn Khaldūn, *Riḥlat*, 37. Abū ‘Amrū ‘Uthmān b. Abī Bakr b. Yūnus is nicknamed Ibn al-Ḥājib after his father’s occupation as doorkeeper (*hājib*) for ‘Izz al-Dīn al-Ṣalāhī. See, Ibn Khallikān, *Wafayāt*, iii, 248–50. Ibn al-Ḥājib, *Jāmi’ al-ummahāt* (ed. Abū ‘Abd al-Raḥmān al-Akhḍar al-Akhḍarī; Beirut and Damascus: al-Yamāma, 1998).

Jāmi‘ al-ummahāt covers over 60 authoritative Mālikī texts and 66,000 legal questions. It follows the standard thematic division of books of *fiqh* (*ṭabāra*, *ṣalāt*, *zakāt*, etc.), but, at the same time, pays close attention to questions of *uṣūl* and *qawā‘id*, and draws on Mālikī scholars’ disputes.¹⁰⁹ These three, Ṭurṭūshī, Shārimsāhī and Ibn al-Ḥājjib, have three principal characteristics in common. They were exposed to the legal hermeneutics of other schools besides the Mālikī, they acted as *mujtahids* within their Mālikī school, and they wrote about juristic disagreement.

Ibn Khaldūn’s intention is to show that multiplicity of opinion had played a vital role in the maturation of Islamic law, hence his tendency to fuse the story of *fiqh* with that of *khilāf* and the consistent narrative of conflict, diversity, and change. This intention crystallizes more when he directly covers the science of legal controversy (*‘ilm al-khilāfiyyāt*). His overview of *khilāf* is part of his section on *uṣūl al-fiqh*, since he regards, it along with *jadāl*, as part of the theoretical study of Islamic law. His account of the science of *khilāf* can be understood in terms of two stages of development: before and after the formation of the Sunni schools of law. Ibn Khaldūn writes in this regard:

As for legal controversy [*al-khilāfiyyāt*], know that there were several disputes between the independent scholars about the rules derived from the legal sources. This was inevitable given their different approaches and for the reasons we have mentioned. This [legal diversity] was widespread and people could follow whoever they wished. But, by the age of the four eponyms who earned high repute, people confined themselves to their teachings. [Soon,] people were forbidden from adhering to other schools due to the decline of *ijtihād* that became arduous as the fields that constitute its subject matter ramified exceedingly. The four schools were fully established as authoritative legal sources for the community. Disagreement took place among their adherents with respect to controversial legal texts and jurisprudential principles. They engaged in debates to advance the theories of their eponyms and to ground them in sound principles that can be used to prove the validity of their legal doctrines.¹¹⁰

In affirming that disagreement among scholars was inevitable, Ibn Khaldūn opens his *khilāfiyyāt* section in the same way he began the *fiqh* section. During Islam’s early days, a multiplicity of legal opinion enjoyed high levels of toleration and people could embrace any legal opinions they desired. Even the schools’ eponyms did not hesitate to

¹⁰⁹ Ibn Farhūn, *Dībāj*, i. 448–50.

¹¹⁰ Ibn Khaldūn, *Muqaddima*, iii. 21.

embrace one another's views on certain questions.¹¹¹ The rise of the authority of the schools occurred side by side with a decline in the number of *mujtahids* and practitioners of independent reasoning. This was caused in part by the enormous and rapid growth of the sciences, which, as result, made it inconceivable for one individual to encompass all of the knowledge needed to qualify as a *mujtahid*. What was left of the spirit of intellectual diversity became limited to juristic disagreement among scholars within their own schools—what I have described elsewhere as a shift from inter-doctrinal to intra-doctrinal *khilāf*.¹¹²

Ibn Khaldūn defines *khilāfiyyāt* and identifies its scholarly value towards the end of this subsection. He calls it 'a class of science' (*ṣinf min al-ʿilm*) and 'controversial jurisprudence' (*al-fiqh al-khilāfi*), and conceives of it as an established sub-discipline of *uṣūl al-fiqh*, not as an assemblage of individual controversies.¹¹³ He asserts that studying jurists' disputes is of immense value for future lawyers, for it equips them with the knowledge they need to make inferences (*istinbāt*), which is indispensable for anyone who desires to attain the rank of a qualified interpreter of the law (*mujtahid*). There is one exception, however. A *mujtahid*, Ibn Khaldūn clarifies, needs to be versed in the methods of juristic disputes to practice *istinbāt*, whereas the *khilāf* scholar (*ṣāhib al-khilāfiyyāt*) acquires them for the purpose of guarding his school's views against refutation. It is this goal (defence of a school's hermeneutical approach) that the science of legal controversy shares with dialectic—this explains why Ibn Khaldūn includes a discussion of *jadal* in the same section with *khilāf*.

Ibn Khaldūn mentions five books of *khilāf* from three schools, but none from the Ḥanbalī school. From the Shāfiʿī school, he cites Ghazālī's (d. 505/1111) *Taḥṣīn al-ma'ākhid* (Fortifying the methods of disagreement).¹¹⁴ From the Mālikī school, he names Abū Bakr

¹¹¹ Ibid, 20.

¹¹² Mourad Laabdi, 'Ilm al-khilāf / Legal controversy' in John O. Voll (ed.), *Oxford Online Bibliographies in Islamic Studies* (Oxford: Oxford University Press, 2018). Online access: <http://www.oxfordbibliographies.com/view/document/obo-9780195390155/obo-9780195390155-0257.xml>.

¹¹³ Ibn Khaldūn, *Muqaddima*, iii. 20 and 21. Occasionally in his translation of the *Muqaddima* (for example, at iii. 30), Rosenthal renders '*al-khilāfiyyāt*' as 'controversial questions' and 'differences of opinion', where it is intended by Ibn Khaldūn as the name of the discipline or science.

¹¹⁴ A recent doctoral thesis undertook a critical edition of a manuscript of *Taḥṣīn al-ma'ākhid*: al-Bashīr Ṭabash, '*Taḥṣīn al-ma'ākhid fī ʿilm al-khilāf* li-l-Imām al-Ghazālī', PhD diss., University of al-Qunayṭira (Morocco), 2017.

Ibn al-‘Arabī’s (d. 543/1148) *al-Talkhīṣ*,¹¹⁵ and Ibn al-Qaṣṣār’s *‘Uyūn al-adilla*.¹¹⁶ From the Ḥanafī school, he identifies Abū Zayd al-Dabbūsī’s (d. 430/1041) *al-Ta’līqa* and ‘a commentary on *uṣūl*’ by Ibn al-Sā’ātī (d. 694/1295).¹¹⁷ His silence about the school of Ibn Ḥanbal may be indicative of an important question that surfaced during the formative era; namely, whether Ibn Ḥanbal is an authority in *fiqh* or *ḥadīth*. At the centre of this debate lies Ṭabarī’s denial of Ibn Ḥanbal’s legal authority and the exclusion of the latter’s legal views from his *Ikhtilāf al-fuqahā*.¹¹⁸ Overall, a close look at the books that Ibn Khaldūn cites shows that, except for Ibn al-Qaṣṣār’s *‘Uyūn al-adilla*, they all are *theoretical* studies of *khilāf*. They pursue the conventional arrangement of writings on *uṣūl* and strive to compare the hermeneutics that informed the scholars’ judgements and gave rise to their disagreements. As a *practical* book on *khilāf*, Ibn al-Qaṣṣār’s work follows the thematic arrangement typical of

¹¹⁵ Ibn Khaldūn credited Ibn al-‘Arabī for introducing *khilāf* to the Andalus and Maghrib. The title he cited is *al-Talkhīṣ fī uṣūl al-khilāf*, which seems not to have survived. The seventeenth-century historian, al-Maqqarī (d. 1041/1632), attributed to Ibn al-‘Arabī two other works on *khilāf*: *al-Khilāfiyyāt* (which may be *al-Talkhīṣ*) and *al-Inṣāf fī masā’il al-khilāf* (Questions in juristic disagreement). Aḥmad b. Muḥammad al-Maqqarī, *Naḥḥ al-ṭīb min ghuṣn al-Andalus al-raṭīb* (ed. Iḥsān ‘Abbās; Beirut: Dār Ṣādir, 8 vols., 1988), ii. 25–43. See also, for an extensive list of Ibn al-‘Arabī’s works in *uṣūl al-fiqh* and *khilāf*, Sa’īd A’rāb, *Ma’a al-Qāḍī Abī Bakr Ibn al-‘Arabī* (Beirut: Dār al-Gharb al-Islāmī, 1987), 143.

¹¹⁶ Abū l-Ḥasan ‘Alī b. Aḥmad, known as Ibn al-Qaṣṣār, was a Mālikī scholar of the Baghdad school. The book, *‘Uyūn al-adilla*, is one of the oldest works on *khilāf*, and it is yet to be published in full. So far, only the first chapter, ‘al-Ṭahāra’, has been edited as part of a doctoral dissertation by ‘Abd al-Ḥamīd b. Nāṣir b. Nāṣir. See Abū l-Ḥasan Ibn al-Qaṣṣār, *‘Uyūn al-adilla fī masā’il al-khilāf bayn fuqahā’ al-amṣār: Kitāb al-Ṭahāra* (ed. ‘Abd al-Ḥamīd b. Sa’d b. Nāṣir al-Saūdi; Riyadh: Jāmi‘at al-Imām Muḥammad b. Sa’ūd al-Islāmiyya, 3 vols., 2006).

¹¹⁷ The first is ‘Abd Allāh b. ‘Umar b. ‘Isā Abū Zayd (nicknamed al-Dabbūsī after his birth town Dabbūsa, present-day Buxoro in Uzbekistan) who has been described by Ibn Khallikān as the founder of the science of *khilāf*, ‘*awwal man waḍa’a ‘ilm al-khilāf wa-abrazahu li-l-wujūd*’: Ibn Khallikān, *Wafayāt*, iii. 48. The book by Ibn al-Sā’ātī that Ibn Khaldūn has in mind is most likely his *Nihāyat al-wuṣūl ilā ‘ilm al-uṣūl, al-ma’rūf bi-Baḍī al-nizām al-jāmi’ bayn Kitāb al-Bazdawī wa-l-abkām* (ed. Ibrāhīm Shams al-Dīn; Beirut: Dār al-Kutub al-‘Ilmiyya, 2004).

¹¹⁸ A decision that triggered serious reaction from Ibn Ḥanbal’s followers against Ṭabarī. Read about the story in Bakr Abū Zayd, *al-Madkhal al-mufaṣṣal ilā madhhab al-Imām Aḥmad Ibn Ḥanbal* (Jeddah: Dār al-‘Āshima, 2 vols., 1996), i. 361–8.

books of *fiqh* and has a clear practical goal, namely to settle legal controversies.¹¹⁹

In his closing statement, Ibn Khaldūn contends that Ḥanafī and Shāfiʿī scholars wrote more about *khilāf* than Mālikīs. The reason is that the Ḥanafīs and Shāfiʿīs admit *qiyās* as an authoritative legal source, whereas the Mālikīs ‘rely heavily on tradition since they are not people of speculation and, for the most part, come from the Maghrib or are Bedouins who care little for the crafts’.¹²⁰ Clearly, this bold statement is informed by his theory of *ʿumrān* and has roots in an earlier remark he made about the rise of the rational school of *raʿy* in Iraq *vis-à-vis* that of *ḥadīth* in North Africa and Arabia.¹²¹ Ibn Khaldūn holds in this respect that the *raʿy*-oriented Ḥanafī school flourished in the region of Iraq because the latter is historically an established centre of *ḥadāra*. In environments of advanced culture, society members are naturally more inclined toward complex ways of knowledge acquisition and instruction. By contrast, the tradition-oriented Mālikī school has prevailed in the Maghrib and Arabia where *badāwa* is the dominant feature of social organization and where people are not as drawn to complex modes of reasoning.

Finally, although part of a chapter on the classification of the sciences, the sections on *fiqh* and *uṣūl* in the *Muqaddima* provide more than an exposition of the epistemological workings of Islamic law and its principles. Considering his theory of *ʿumrān*, Ibn Khaldūn also establishes the historical and social role of the law in the evolution of Muslim society. Many of the questions that guide his discussion go beyond the techniques of *fiqh* and *uṣūl* to grapple with issues at the centre of society. Questions such as, why the rational legal method thrived in certain Muslim territories such as Baghdad and the Levant, but not in Arabia and North Africa? Why the science of *khilāf* and Muslims’ tolerance of legal pluralism diminished after the dominance of the four Sunni schools of law? Why the vast majority of Muslim scholars throughout the history of Islam were from other ethnicities than the Arab?

CONCLUSION

This study has focused on the legal side of Ibn Khaldūn’s thought and career. It began with inquiring into his legal training and writings.

¹¹⁹ For the distinction between theoretical and practical studies of *khilāf* and a detailed bibliographical list of key classical *khilāf* writings from each subgenre, see, Laabdi, ‘*Ilm al-khilāf* / Legal controversy’.

¹²⁰ Ibn Khaldūn, *Muqaddima*, iii. 21.

¹²¹ See Ibn Khaldūn’s comments on the *ḥadīth/raʿy* approaches in *ibid*, 4–5.

It looked at the question of his authorship of *Muzīl al-malām* and concluded that the question is not settled because of the absence of any mention of the treatise by Ibn Khaldūn himself or by his biographers, and due to its conflict with certain Mālikī principles. At the same time, however, we saw that *Muzīl al-malām* shares with the *Muqaddima* and *Riḥla* the same emphasis (in places in the same words) on the merits of self-reflection after adjudication, impartiality and justice, and of protecting religious endowments and scrutinizing the notaries.

The next two sections turned to the practical aspect of Ibn Khaldūn's relationship with the law and his role as chief Mālikī judge in Egypt. The second section examined his peers' appraisal of his performance and reaction to his appointment. Some (Ibn 'Ammār, Ibn Taghrībirdī, Aqfahsī, Maqrīzī) praised his legal knowledge and practice highly. Others (such as Ibn Ḥajar and Sakhāwī) discounted his ability almost entirely, accusing him of many faults including a lack of manners and neglect of Mamlūk judicial customs, and attacking his lineage, honour, and religious belief. Among judges, rivalry for office and political gains in this restless era of Mamlūk Egypt was an established feature of political life. Ibn Khaldūn's closeness to the ruling elite and his strict reforms made him several enemies who saw him as a threat to their interests.

The third section looked at Ibn Khaldūn's (over-)ambitious project of judicial reform in Mamlūk Egypt, particularly his concern with religious endowments and the notaries. From an account of *waqf* and *'udūl* in the *Muqaddima* we learned that his theoretical understanding of the judiciary informed his legal reforms and practices, and that his efforts to reform *waqf* and *'udūl* derive from and embody his theory of culture and society: the *'udūl* were direct participants in the corruption of *waqf*, which negatively impacted the wider public's sense of justice. Ibn Khaldūn held that justice (*'adl*) must be every ruler's ultimate goal since it is critical to the rise and decay of dynasties. *'Adl* is one of the qualities on the side of the good (*khayr*) that are—along with *'aṣabiyya*—essential for sustaining social unity, solidarity and cohesion, and thereby sustaining the legitimacy (authority) of sovereign power (*mulk*).

The last two sections turned to the theoretical aspects of Ibn Khaldūn's relationship with the law. The fourth section reviewed his approach to legal history and its coherence with his model of historical writing, namely history as a rational activity of reflective interpretation (*ta'wīl*), not mere transmission and arrangement (*naql*) of reports. This approach has been read as a response to his fellow Muslim historians' lack of interest in critical analysis of historical reports, and as a critique of Aristotle's position on the craft of history. Ibn Khaldūn urged the use of various ways of reasoning such as speculation (*naẓar*),

critical verification (*taḥqīq*), and the close investigation of the causes of events (*ta'līl*).

Finally, a close reading of two sections on *fiqh* and *uṣūl al-fiqh* in the *Muqaddima* led the reconstruction of Ibn Khaldūn's narrative in the light of his emphasis on the plurality and diversity of the law in Islam. That emphasis made the story he recounts about *fiqh* and *uṣūl* more like a story about *khilāf*. This was seen in his classification of juristic disagreement or legal controversy (*ʿilm al-khilāfiyyāt*) as a distinct discipline on the theory (rational) side of Islamic law. The authors and works he selected for discussion show that conflict and diversity of legal opinion form the axis around which his account of *fiqh* and *uṣūl al-fiqh* revolves. The two sections of the *Muqaddima* are part of a chapter on the division of the sciences. However, it was not an objective of this paper to address epistemological characteristics of his account of the division of the sciences.¹²²

I hope that this study has shed some light on Ibn Khaldūn's legal life and career and that it may inspire more and deeper explorations. There is much more to unveil about this side of Ibn Khaldūn's thought and career, and other related important questions and topics not touched upon here. It will be useful, for example, to further explore the merit of justice (*ʿadl*) at the crossroads of the legal and the social in his thought and that of important contemporaries, such as Ibn Taymiyya (d. 728/1328). They lived in an age of the severest disruption, experienced the Mongols' invasion (Ibn Taymiyya, very directly), and both assigned to the law and its administration a crucial role in establishing justice and projecting the authority of the state, and thereby securing social prosperity. A comparative study on this question of Ibn Khaldūn's *Muqaddima* and Ibn Taymiyya's *al-Siyāsa al-sharʿiyya* should be illuminating. Despite serious attempts, of the kind undertaken by scholars like Riḍwān al-Sayyid,¹²³ to situate Ibn Khaldūn within his intellectual milieu and read him alongside other Islamic scholars, there is much more to be done.

¹²² For this, see, Zaid Ahmad, *The Epistemology of Ibn Khaldūn*, esp. 43–50.

¹²³ E.g., his comparative study of Ibn Khaldūn and Māwardī on the question of the place of the city in state politics. Riḍwān al-Sayyid, 'al-Madīna wa-l-Dawla fī l-Islām: Dirāsa fī Ru'yatay al-Māwardī wa-Ibn Khaldūn', *al-Abḥāth* of the American University of Beirut, 34 (1986): 229–47.